

LEASE AGREEMENT

BY AND BETWEEN

RAINFOREST ASSOCIATES, LTD.,
a TEXAS LIMITED PARTNERSHIP

AS LANDLORD

AND

CONVENIENCE FOOD SYSTEMS, INC., A DELAWARE CORPORATION

AS TENANT

DATED JUNE 30, 2001

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LEASE AGREEMENT

BASIC LEASE INFORMATION

Lease Date: June __, 2001

Landlord: Rainforest Associates, LTD.,
a Texas limited partnership

Landlord's Address: 6000 Legacy Drive
Suite 4E
Plano, Texas 75024
Attn: Andrew Beal

All notices sent to Landlord under this Lease shall be sent
to the above address, with copies to:

Jenkins & Gilchrist
a Professional Corporation
1445 Ross Avenue
Suite 3200
Dallas, Texas 75202-2799
Attn: Lawrence C. Adams, Esq.

Tenant: Convenience Food Systems, Inc., a Delaware corporation

Tenant's Contact

Person: Chris Van Wandelen

Tenant's Address

and Telephone 91 Wales Avenue _____
Number: Avon, Massachusetts 02322-0358
(800) 388-2601

Premises Square Approximately One Hundred and Fifty-Nine Thousand Seven Hundred and
Footage: Fifty-Seven(159,757) square feet.

Premises Address: 8000 N. Dallas Parkway
Frisco, Texas 75034

Project: Beal Aerospace Building
together with the paved parking areas surrounding the Building, as
generally described on Exhibit A

Building (if not the same as the Project): Beal Aerospace Building

Tenant's
Proportionate Share of Project: 100%

Tenant's
Proportionate Share of Building: 100%

Length of Term: One Hundred Twenty (120) months; one five (5) year renewal option if exercised in accordance with Paragraph 56.

Estimated
Commencement Date: July 1, 2001

Estimated Expiration
Date: June 30, 2011

Base Rent:

<u>Months</u>	<u>Sq. Ft.</u>	<u>Annual Base Rate</u>	<u>Annual Base Rent</u>	<u>Monthly Base Rate</u>	<u>Monthly Base Rent</u>
1-60	159,757			x \$ _____	=
60-120	159,757			x \$ _____	
			+CPI increase (as set forth in Lease)		+CPI increase (as set forth in Lease)

Prepaid Base Rent:

Prepaid Additional
Rent:

_____ NA _____ (\$ _____)

*Month(s) to which
Prepaid Base Rent
and Additional Rent*

will be Applied: First (1st) month(s) of the Term

Security Deposit:

Permitted Use: Any lawful use on a twenty-four hour, seven day a week basis, save and except any use of the Premises for immoral purposes such as an adult video store, liquor store, massage parlor, gentlemen's club or any similar use.

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into by and between Landlord and Tenant on the Lease Date. The defined terms used in this Lease which are defined in the Basic Lease Information attached to this Lease Agreement ("Basic Lease Information") shall have the meaning and definition given them in the Basic Lease Information. The Basic Lease Information, the exhibits, the addendum or addenda described in the Basic Lease Information, and this Lease Agreement are and shall be construed as a single instrument and are referred to herein as the "Lease".

1. DEMISE

In consideration for the rents and all other charges and payments payable by Tenant, and for the agreements, terms and conditions to be performed by Tenant in this Lease, LANDLORD DOES HEREBY LEASE TO TENANT, AND TENANT DOES HEREBY LEASE FROM LANDLORD, the Premises described below (the "Premises"), upon the agreements, terms and conditions of this Lease for the Term hereinafter stated.

2. PREMISES

The Premises demised by this Lease is that certain building (the "Building") specified in the Basic Lease Information, a floor plan of which is shown on *Exhibit A-1* which Building is located in that certain real estate development (the "Project") specified in the Basic Lease Information, save and except that certain One Thousand Two Hundred Thirty-Three (1,233) square foot area of the Building labeled as the "Control Room" on *Exhibit A-1*. The Premises has the address and contains the square footage specified in the Basic Lease Information; provided, however, that any statement of square footage set forth in this Lease, or that may have been used in calculating any of the economic terms hereof, is an approximation which Landlord and Tenant agree is reasonable and, except as expressly set forth in Paragraph 4(c)(3) below, no economic terms based thereon shall be subject to revision whether or not the actual square footage is more or less. The location and dimensions of the Premises are depicted on *Exhibit A*, which is attached hereto and incorporated herein by this reference.

Tenant understands and agrees that the Premises shall be leased by Tenant in its "as-is" condition without any warranties or representations regarding the Premises suitability for Tenant's use and without any improvements or alterations by Landlord unless Landlord has expressly agreed to make such improvements or alterations in a tenant improvement work agreement mutually agreed to in writing by the parties. If Landlord has agreed to make any such improvements or alterations, then the Premises demised by this Lease shall include any Tenant Improvements (as that term is defined in the aforesaid tenant improvement work agreement) to be constructed by Landlord within the interior of the Premises.

Landlord has the right, in its reasonable discretion, from time to time with reasonable notice to Tenant, to make changes to the Building and/or the Project, including, without limitation, changes in the location, size, shape and number of driveways, entrances, parking areas, ingress, egress, direction of driveways, entrances; provided, however, Landlord covenants not to unreasonably interfere with Tenant's business operations. Moreover, Landlord shall have a continuous right of access over the Project throughout the Term or any Extended Term of this Lease for ingress and egress to and from the Control Room and Landlord shall be entitled to enter, use and occupy the Control Room throughout the Term or any Extended Term of this Lease, so long as such access through the Project does not unreasonably interfere with Tenant's business. In the event Landlord unreasonably interferes with Tenant's business operations as a result of the foregoing, in Tenant's reasonable discretion, Tenant may terminate this Lease by written notice to Landlord, effective upon Landlord's receipt of such notice. Notwithstanding the foregoing, Landlord may close the existing driveway that leads to the Project at any time in which case Tenant shall have access to the Project through "Cotton Gin Road."

Without limiting the foregoing, Landlord reserves the right from time to time, in its reasonable discretion upon notice to Tenant, to install, use, maintain, repair, relocate and replace pipes, ducts, conduits, wires, and appurtenant meters and equipment for service to the Premises or to other parts of the Building which are above the ceiling surfaces, below the floor surfaces, within the walls and in the central core areas of the Building which are located within the Premises or located elsewhere in the Building. In connection with any of the foregoing activities of Landlord, Landlord shall use reasonable efforts while conducting such activities to minimize any interference with Tenant's use of the Premises. Nothing contained in this paragraph shall require Landlord to perform any such repairs or maintenance.

No rights to any view or to light or air over any property, whether belonging to Landlord or any other person, are granted to Tenant by this Lease. If at any time any windows of the Premises are temporarily darkened or the light or view therefrom is obstructed by reason of any repairs, improvements, maintenance or cleaning in or about the Building.

Notwithstanding anything contained herein to the contrary, prior to Tenant's occupancy of the Premises, Landlord shall be responsible for delivering the Premises to Tenant in standard rent-ready condition, including without limitation the carpets, bathrooms and painting the lobby area and the exterior of the Building; provided, however, Landlord shall not be required to expend more than Ten Thousand and No/100 U.S. Dollars (\$10,000.00) (the "Cap") in performing the aforesaid maintenance prior to Tenant's occupancy of the Premises. Tenant may have the interior walls of the Premises painted and Landlord shall pay for same upon receiving an invoice from Tenant or

Tenant's contractor; provided, however, in no instance shall Landlord be required to expend more than the Cap for all such repairs to the Premises and painting.

3. TERM

The term of this Lease (the "Term") shall be for the period of months and days specified in the Basic Lease Information, commencing on the date Tenant commences occupancy of the Premises (the "Commencement Date").

4. RENT

(a) *Base Rent.* Tenant shall pay to Landlord, in advance on the first day of each month, without further notice or demand and without abatement, offset, rebate, credit or deduction for any reason whatsoever, the monthly installments of rent specified in the Basic Lease Information (the "Base Rent"). Pursuant to the Basic Lease Information, Base Rent for years six (6) through ten (10) of the Term and any Extended Term (as hereinafter defined) shall be subject to increases as a result of increases in the cost of living during the Term or Extended Term, as the case may be. On the first day of each January during years six (6) through ten (10) of the Term or any Extended Term of this Lease (each an "Adjustment Date"), Base Rent shall be adjusted to reflect the increase, if any, in the cost of living over the preceding calendar year. Base Rent due as a result of an increase in the cost of living shall be calculated in accordance with the terms set forth below. The basis for computing the cost of living shall be the unadjusted Consumer Price Index for All Urban Consumers, All Items (1982-84=100) published by the Bureau of Labor Statistics of the United States Department of Labor (the "Index"). The Index for the second month of November preceding the Adjustment Date shall be the "Base Index Number." The Index for the month of November immediately preceding the Adjustment Date shall be the "Current Index Number." The Base Rent for the calendar year commencing on such Adjustment Date shall be the product obtained from multiplying the Base Rent (annualized) for the year immediately preceding the Adjustment Date by the fraction whose numerator is equal to the Current Index Number and whose denominator is equal to the Base Index Number; provided that in no event will Base Rent for such calendar year be less than the amount of Base Rent for the calendar year immediately preceding the Adjustment Date and such annual increase shall not exceed an annual increase of five percent (5%) in the Index from the calendar year preceding the Adjustment Date.

Upon execution of this Lease, Tenant shall pay to Landlord the Security Deposit, Prepaid Rent and the first monthly installment of estimated Additional Rent (as hereinafter defined) specified in the Basic Lease Information to be applied toward Base Rent and Additional Rent for the month(s) of the Term specified in the Basic Lease Information.

As used in this Lease, the term "Additional Rent" shall mean all sums of money, other than Base Rent, that shall become due from and payable by Tenant pursuant to this Lease.

(b) Additional Rent.

(1) This Lease is intended to be a triple-net lease with respect to Landlord and subject to the provisions of Section 13(b) of this Lease, the Base Rent owing hereunder is (x) to be paid by Tenant absolutely net of all costs and expenses relating to Landlord's ownership and operation of the Project and the Building, and (y) not to be reduced, offset or diminished, directly or indirectly, by any cost, charge or expense payable hereunder by Tenant or by others in connection with the Premises, the Building and/or the Project, or any part thereof. The provisions of this Paragraph 4(b) for the payment of Tenant's Proportionate Share(s) of Expenses (as hereinafter defined) are intended to pass on to Tenant; Tenant's share of all costs and expenses relating to Landlord's ownership and operation of the Premises, the Building and/or the Project pursuant to the terms and conditions hereof. During the Term or any Extended Term, in addition to the Base Rent, Tenant shall pay to Landlord as Additional Rent, in accordance with this Paragraph 4, (i) Tenant's Proportionate Share(s) of Operating Expenses (as defined below) attributable to each Computation Year (as defined below), (ii) Tenant's Proportionate Share(s) of Insurance Expenses (as defined below) attributable to each Computation Year, (iii) Tenant's Proportionate Share(s) of Utility Expenses (as defined below) attributable to each Computation Year, and (iv) Tenant's Proportionate Share(s) of Taxes (as defined below) attributable to each Computation Year.

(2) As used in this Lease, the following terms shall have the meanings specified:

(A) "Operating Expenses" means the total costs and expenses paid or incurred by Landlord in connection with the ownership, operation, maintenance, management and repair of the Premises, the Building and/or the Project or any part thereof, including, without limitation, all the following items:

(i) *Governmental Charges.* Any charges or other costs levied, assessed or imposed by, or at the direction of, or resulting from statutes or regulations, or interpretations thereof, promulgated by any governmental authority or insurer in connection with the use or occupancy of the Building or the Project.

(ii) *Maintenance and Repair Costs.* Except for costs which are the responsibility of Landlord pursuant to Paragraph 13(b) below, all costs to maintain, repair, and replace the Premises, the Building and/or the Project or any part thereof and the personal property used in conjunction therewith, including without limitation, (a) all costs paid under maintenance, management and service agreements such as contracts for

janitorial, security and refuse removal, if employed solely to maintain the Building, (b) the cost of all cleaning and janitorial services and supplies, the cost of window glass replacement and repair, (c) the cost of maintenance and replacement of machinery, tools and equipment (if owned by Landlord) and for rental paid for such machinery, tools and equipment (if rented) used in connection with the operation or maintenance of the Building; (d) any cost of maintaining the Adjacent Lot (as hereinafter defined), including without limitation all supplies, landscaping costs, materials, labor, equipment used in maintaining such Adjacent Lot, (e) any costs of maintaining any sprinkler system on the Project, in the Building or on the Adjacent Lot, (f) the cost of re-marking paved surfaces and resurfacing of parking areas where such is an appropriate means of repair to asphalt or concrete surfaces; and (g) any costs of mowing and/or landscaping the grounds around the Building, if done by Landlord or Landlord's agents.

(iii) *Life Safety Costs.* All reasonable costs to install, maintain, repair and replace all life safety systems, including, without limitation, all fire alarm systems, serving the Premises, the Building and/or the Project or any part thereof (including all maintenance contracts and fees payable to life safety consultants) if such systems are or shall be required by Landlord's insurance carriers, Laws (as hereinafter defined) or otherwise.

(iv) *Management and Administration.* All reasonable costs for management and administration of the Premises, the Building and/or the Project or any part thereof, including, without limitation, a property management fee, accounting, auditing, billing, postage, salaries and benefits for all on-site employees at or above the level of building manager and contractors engaged in the management, operation, maintenance, repair and protection of the Building and the Project.

(v) *Capital Improvements.* The cost of capital improvements or other costs incurred in connection with the Building (A) that are required to comply with present or anticipated conservation programs and/or (B) that are required under any governmental law or regulation; however the foregoing are subject to the provisions of Paragraph 9(c).

Notwithstanding anything in this Paragraph 4(b) to the contrary, Insurance Expenses, Utility Expenses and Taxes shall not be deemed to constitute "Operating Expenses" for purposes of this Paragraph 4(b)(2)(A). Moreover, notwithstanding anything herein to the contrary, Operating Expenses for purposes of this Lease shall not include the following:

(i) principal or interest payments on loans of Landlord whether or not secured by mortgages or trust deeds on the Premises, Building or the Project;

(ii) any amounts paid to a corporation, partnership, entity or person which is an affiliate of Landlord and which amount is in excess of the amount which would reasonably have been paid had Landlord negotiated a contract with an independent third party;

(iii) wages and salaries paid to any employee of Landlord above the level of the manager of Landlord's Building or any employee of Landlord not directly involved in the maintenance and management of the Building;

(iv) the cost of any utility service which is separately metered to the Tenant for which the Tenant pays the utility directly;

(v) costs, expenses, depreciation, or amortization for capital repairs and replacements required to be made by Landlord under this Lease;

(vi) costs of improvements to the Premises, the Building and the Project that are not necessitated by Tenant's use of the Premises;

(vii) costs of improvements to the Building or the Project made by Landlord during the Term of this Lease, except as specifically provided for herein;

(viii) the costs of replacements incurred by reason of fire or other casualty or condemnation;

(ix) cost of work or services, repairs, restoration or materials to the extent that Landlord receives reimbursement therefor from an insurance carrier or the Tenant; and

(x) costs and expenses incurred in connection with leasing space in the Building such as leasing commissions, advertising and promotional expenses, except as provided for herein.

(B) "Insurance Expenses" means the total costs and expenses paid or incurred by Landlord in connection with the obtaining of insurance on the Premises, the Building and/or the Project or any part thereof or interest therein, including, without limitation, premiums for "all risk" fire and extended coverage insurance, commercial general liability insurance, rent loss or abatement insurance, earthquake insurance, flood or surface water, coverage, and other insurance as Landlord deems necessary in its reasonable discretion, and any deductibles paid under policies of any such insurance. The foregoing shall not be deemed an agreement by Landlord to carry any particular insurance relating to the Premises, Building, or Project.

(C) "Utility Expenses" means the cost of all electricity, water, gas, sewers, oil and other utilities (collectively, "Utilities"), including any surcharges imposed, serving

the Premises and the Building or any part thereof that are not separately metered and billed to Tenant, and any amounts, taxes, charges, surcharges, assessments or impositions levied, assessed or imposed upon the Premises, and the Building or any part thereof, or upon Tenant's use and occupancy thereof, as a result of any rationing of Utility services or restriction on Utility use affecting the Premises, the Building and/or the Project, as contemplated in Paragraph 5 below.

(D) "Taxes" means all real estate taxes and assessments, which shall include any form of tax, assessment (including any special or general assessments and any assessments or charges for Utilities or similar purposes included within any tax bill for the Building or the Project or any part thereof, including, without limitation, entitlement fees, allocation unit fees and/or any similar fees or charges), fee, license fee, business license fee, levy, penalty (if a result of Tenant's delinquency), sales tax, rent tax, occupancy tax or other tax (other than net income, estate, gift, capital stock taxes, succession, inheritance, transfer or franchise taxes), imposed by any authority having the direct or indirect power to tax, or by any city, county, state or federal government or any improvement or other district or division thereof, whether such tax is determined by the area of the Premises, the Building and/or the Project or any part thereof, or the Rent and other sums payable hereunder by Tenant or by other tenants, including, but not limited to, (i) any gross income or excise tax levied by any of the foregoing authorities, with respect to receipt of Rent and/or other sums due under this Lease; (ii) upon any legal or equitable interest of Landlord in the Premises, the Building and/or the Project or any part thereof, (iii) upon this transaction or any document to which Tenant is a party creating or transferring any interest in the Premises, the Building and/or the Project; (iv) levied or assessed in lieu of, in substitution for, or in addition to, existing or additional taxes against the Premises, the Building and/or the Project, whether or not now customary or within the contemplation of the parties; or surcharged against any parking areas. Landlord specifically reserves the right, but not the obligation, to contest by appropriate legal proceedings the amount or validity of any taxes. Landlord shall pay Tenant its share of any tax refunds. This subparagraph 4(b)(2)(D) shall survive termination or expiration of this Lease.

(E) "Computation Year" shall mean each twelve (12) consecutive month period commencing January 1 of each year during the Term or any Extended Term, provided that Landlord, upon notice to Tenant, may change the Computation Year from time to time to any other twelve (12) consecutive month period, and, in the event of any such change, Tenant's Proportionate Share(s) of Operating Expenses, Insurance Expenses, Utility Expenses and Taxes shall be equitably adjusted for the Computation Years involved in any such change.

(c) Payment of Additional Rent.

(1) Upon commencement of this Lease, Landlord shall submit to Tenant an estimate of monthly Additional Rent for the period between the Commencement Date and the following December 31 and Tenant shall pay such estimated Additional Rent on a monthly basis, in advance, on the first day of each month. Tenant shall continue to make said monthly payments until notified by Landlord of a change therein. Thereafter, within ninety (90) days of the end of each Computation Year or as soon thereafter practicable, Landlord shall give to Tenant Notice of Landlord's estimate of the total amounts that will be payable by Tenant under Paragraph 4(b) for the following Computation Year. If at any time or times Landlord determines that the amounts payable under Paragraph 4(b) for the current Computation Year will vary from Landlord's estimate given to Tenant, Landlord, by notice to Tenant, may revise the estimate for such Computation Year, once during any Computation Year, and subsequent payments by Tenant for such Computation Year shall be based upon such revised estimate. By April 1 of each Computation Year, Landlord shall provide to Tenant a statement showing the actual Additional Rent due to Landlord for the prior Computation Year, to be prorated for partial Computation Years during the Term or any Extended Term as the case may be. If the total of the monthly payments of Additional Rent that Tenant has made for the prior Computation Year is less than the actual Additional Rent chargeable to Tenant for such prior Computation Year, then Tenant shall pay the difference in a lump sum within ten (10) days after receipt of such statement from Landlord. Any overpayment by Tenant of Additional Rent for the prior Computation Year shall, at Landlord's option, be credited towards the Additional Rent next due or returned to Tenant in a lump sum payment within ten (10) days after delivery of such statement.

(2) Landlord's then-current annual operating and capital budgets for the Building and the Project or the pertinent part thereof shall be used for purposes of calculating Tenant's monthly payment of estimated Additional Rent for the current year, subject to adjustment as provided above. Landlord shall make the final determination of Additional Rent for the year in which this Lease terminates as soon as possible after termination of such year. Even though the Term or any Extended Term has expired and Tenant has vacated the Premises, with respect to the year in which this Lease expires or terminates, Tenant shall remain liable for payment of any amount due to Landlord in excess of the estimated Additional Rent previously paid by Tenant, and, conversely, Landlord shall promptly return to Tenant any overpayment. Failure of Landlord to submit statements as called for herein shall not be deemed a waiver of Tenant's obligation to pay Additional Rent as herein provided.

(3) With respect to Operating Expenses, Insurance Expenses, Utility Expenses or Taxes which Landlord allocates to the Building, Tenant's "Proportionate Share" shall be the percentage set forth in the Basic Lease Information as Tenant's Proportionate Share of the Building, as adjusted by Landlord from time to time for a remeasurement of

or changes in the physical size of the Premises or the Building, whether such changes in size are due to an addition to or a sale or conveyance of a portion of the Building or otherwise. With respect to Operating Expenses, Insurance Expenses, Utility Expenses or Taxes which Landlord allocates to the Project as a whole or to only a portion of the Project, Tenant's "Proportionate Share" shall be, with respect to Operating Expenses Insurance Expenses, Utility Expenses or Taxes which Landlord allocates to the Project as a whole, the percentage set forth in the Basic Lease Information as Tenant's Proportionate Share of the Project and, with respect to Expenses which Landlord allocates to only a portion of the Project, a percentage calculated by Landlord from time to time in its reasonable discretion and furnished to Tenant in writing, in either case as adjusted by Landlord from time to time for a remeasurement of or changes in the physical size of the Premises or the Project, whether such changes in size are due to an addition to or a sale or conveyance of a portion of the Project or otherwise. Notwithstanding the foregoing, Landlord may equitably adjust Tenant's Proportionate Share(s) for all or part of any item of expense or cost reimbursable by Tenant that relates to a repair, replacement, or service that benefits only the Premises or only a portion of the Building and/or the Project or that varies with the occupancy of the Building and/or the Project. Without limiting the generality of the foregoing, Tenant understands and agrees that, to the extent any Utilities are not separately metered, Landlord shall have the right to adjust Tenant's Proportionate Share(s) of any Utility Expenses based upon Tenant's use of the Utilities or similar services as reasonably estimated and determined by Landlord based upon factors such as size of the Premises and intensity of use of such Utilities by Tenant such that Tenant shall pay the portion of such charges reasonably consistent with Tenant's use of such Utilities and similar services. If Tenant disputes any such estimate or determination of Utility Expenses, then Tenant shall either pay the estimated amount or, with the prior written consent of Landlord, which consent may not be unreasonably withheld, cause the Premises to be separately metered at Tenant's sole expense.

(d) *General Payment Terms.* The Base Rent, Additional Rent and all other sums payable by Tenant to Landlord hereunder, any late charges assessed pursuant to Paragraph 6 below and any interest assessed pursuant to Paragraph 46 below, are referred to as "Rent". All Rent shall be paid without deduction, offset or abatement in lawful money of the United States of America. Checks are to be made payable to Landlord and shall be mailed to Landlord at the address set forth in the Basic Lease Information or to such other person or place as Landlord may, from time to time, designate to Tenant in writing. The Rent for any fractional part of a calendar month at the commencement or termination of the Term or the Extended Term shall be a prorated amount of the Rent for a full calendar month based upon a thirty (30) day month.

(e) *Statements Binding.* Every statement given by Landlord pursuant to paragraph (c) of this Paragraph 4 shall be conclusive and binding upon Tenant unless within ninety (90) days after the receipt of such statement Tenant shall notify Landlord (a "Dispute

Notice") that it disputes the correctness thereof, specifying, subject to Tenant's audit rights set forth in paragraph (f) below, the particular respects in which the statement is claimed to be incorrect. Following Landlord's receipt of a Dispute Notice, Landlord and Tenant shall have a period of forty-five (45) days in which to discuss the matters raised in such Dispute Notice and reach agreement on a resolution thereof. If Landlord and Tenant are not able to resolve such dispute within such forty-five (45) day period, then Tenant shall submit the dispute to arbitration within forty-five (45) days after the end of such forty-five (45) day discussion period. Pending the determination of such dispute by agreement or arbitration as aforesaid, Tenant shall, within ten (10) days after receipt of such statement, pay Additional Rent in accordance with Landlord's statement and such payment shall be without prejudice to Tenant's position. If the dispute shall be determined in Tenant's favor, Landlord shall within thirty (30) days pay Tenant the amount of Tenant's overpayment of Additional Rent resulting from compliance with Landlord's statement.

(f) *Audit Rights.* Provided Tenant notifies Landlord in accordance with the terms of paragraph (e) above that Tenant disputes a statement received from Landlord, Tenant or its CPA (as defined below) shall have the right, at Tenant's sole cost and expense, provided Tenant utilizes a Certified Public Accountant (the "CPA") compensated on an hourly basis, upon at least fifteen (15) days prior written notice to Landlord at any time during regular business hours to audit, review and photocopy Landlord's records pertaining to Operating Expenses for the immediately previous calendar year only. Tenant agrees to keep all information thereby obtained by Tenant confidential. Notwithstanding the foregoing, Landlord agrees to pay all Tenant's reasonable costs and expenses of such audit within thirty (30) days after receipt of such audit report, if such audit discloses an overcharge of more than five percent (5%). In addition, if such audit reveals an overpayment or underpayment by Tenant for the year audited within thirty (30) days after the audit report is delivered to Landlord, Landlord covenants to correct such statement and credit Tenant with the amount of any overpayment and Tenant will pay Landlord the amount of any underpayment. This subparagraph (f) shall survive the expiration or termination of this Lease.

5. UTILITY EXPENSES

(a) Tenant shall pay the cost of all water, sewer use, sewer discharge fees and permit costs and sewer connection fees, gas, heat, electricity, refuse pick-up, janitorial service, telephone and all materials and services or other utilities of any kind or nature (collectively, "Utilities") billed or metered separately to the Premises, Building and Project and/or Tenant, together with all taxes, assessments, charges and penalties added to or included within such cost. Tenant acknowledges that the Premises, the Building and/or the Project may become subject to the rationing of Utility services or restrictions on Utility use as required by a utility company, governmental agency or other similar entity having jurisdiction thereof. Tenant acknowledges and agrees that its tenancy and

occupancy hereunder shall be subject to such rationing or restrictions as may be imposed upon Landlord, Tenant, the Premises, the Building and/or the Project, and Tenant shall in no event be excused or relieved from any covenant or obligation to be kept or performed by Tenant by reason of any such rationing or restrictions. Tenant agrees to comply with energy conservation programs implemented by Landlord by reason of rationing, restrictions or Laws.

(b) Landlord shall not be liable for any loss, injury or damage to property caused by or resulting from any variation, interruption, or failure of Utilities due to any cause whatsoever. No temporary interruption or failure of such services shall be deemed an eviction of Tenant or relieve Tenant from any of its obligations hereunder. In no event shall Landlord be liable to Tenant for any damage to the Premises, Building and/or Project or for any loss, damage or injury to any property therein or thereon occasioned by bursting, rupture, leakage or overflow of any plumbing or other pipes (including, without limitation, water, steam, and/or refrigerant lines), sprinklers, tanks, drains, drinking fountains or washstands, or other similar cause in, above, upon or about the Premises, the Building, or the Project.

(c) Without limiting the terms of Paragraph 5(a) above, Tenant acknowledges that Landlord has contracted with CoServ to provide electricity for the Building (such provider being referred to herein as the "Electric Service Provider"). Tenant shall obtain and accept electrical service for the Premises only from and through Landlord, in the manner and to the extent expressly provided in this Lease, at all times during the Term or any Extended Term of this Lease, and Tenant shall have no right (and hereby waives any right Tenant may otherwise have) (i) to contract with or otherwise obtain any electrical service for or with respect to the Premises or Tenant's operations therein from any provider of electrical service other than the Electric Service Provider, or (ii) to enter into any separate or direct contract or other similar arrangement with the Electric Service Provider for the provision of electrical service to Tenant at the Premises. Tenant shall cooperate with Landlord and the Electric Service Provider at all times to facilitate the delivery of electrical service to Tenant at the Premises and to the Building, including without limitation allowing Landlord and the Electric Service Provider, and their respective agents and contractors, (a) to install, repair, replace, improve and remove any and all electric lines, feeders, risers, junction boxes, wiring, and other electrical equipment, machinery and facilities now or hereafter located within the Building or the Premises for the purpose of providing electrical service to or within the Premises or the Building, and (b) reasonable access for the purpose of maintaining, repairing, replacing or upgrading such electrical service from time to time. Tenant shall provide such information and specifications regarding Tenant's use or projected use of electricity at the Premises as shall be required from time to time by Landlord or the Electric Service Provider to efficiently provide electrical service to the Premises or the Building. In no event shall Landlord be liable or responsible for any loss, damage, expense or liability, including without limitation loss of business or any consequential damages, arising from

any failure or inadequacy of the electrical service being provided to the Premises or the Building, whether resulting from any change, failure, interference, disruption, or defect in the supply or character of the electrical service furnished to the Premises or the Building, or arising from the partial or total unavailability of electrical service to the Premises or the Building, from any cause whatsoever, or otherwise, nor shall any such failure, inadequacy, change, interference, disruption, defect or unavailability constitute an actual or constructive eviction of Tenant, or entitle Tenant to any abatement or diminution of Rent or otherwise relieve Tenant from any of its obligations under this Lease. Notwithstanding anything contained herein to the contrary, when Landlord's current contract with the Electric Service Provider expires no later than December 31, 2003, then Tenant may contract with any utility provider to provide electricity to the Premises during the Term of this Lease.

6. LATE CHARGE

Notwithstanding any other provision of this Lease to the contrary, Tenant hereby acknowledges that late payment to Landlord of Rent, or other amounts due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. If any Rent or other sums due from Tenant are not received by Landlord or by Landlord's designated agent within ten (10) days after their due date, then Tenant shall pay to Landlord a late charge equal to five percent (5%) of such overdue amount, plus any costs and reasonable attorneys' fees incurred by Landlord by reason of Tenant's failure to pay Rent and/or other charges when due hereunder. Landlord and Tenant hereby agree that such late charges represent a fair and reasonable estimate of the cost that Landlord will incur by reason of Tenant's late payment and shall not be construed as a penalty. Landlord's acceptance of such late charges shall not constitute a waiver of Tenant's default with respect to such overdue amount or estop Landlord from exercising any of the other rights and remedies granted under this Lease.

Initials: Landlord AB Tenant _____

7. SECURITY DEPOSIT

Concurrently with Tenant's execution of the Lease, Tenant shall deposit with Landlord the Security Deposit specified in the Basic Lease Information as security for the full and faithful performance of each and every term, covenant and condition of this Lease. Landlord may use, apply or retain the whole or any part of the Security Deposit as may be reasonably necessary (a) to remedy any Default by Tenant under this Lease, (b) to repair damage to the Premises caused by Tenant, (c) to clean the Premises upon termination of this Lease, (d) to reimburse Landlord for the payment of any amount which Landlord may reasonably spend or be required to spend by reason of Tenant's Default, and (e) to compensate Landlord for any other loss or damage which Landlord may suffer

by reason of Tenant's Default. Should Tenant faithfully and fully comply with all of the terms, covenants and conditions of this Lease, within thirty (30) days following the expiration of the Term or any Extended Term, the Security Deposit or any balance thereof shall be returned to Tenant. Landlord shall not be required to keep the Security Deposit separate from its general funds and Tenant shall not be entitled to any interest on such deposit. If Landlord so uses or applies all or any portion of said deposit, within five (5) days after written demand therefor Tenant shall deposit cash with Landlord in an amount sufficient to restore the Security Deposit to the full extent of the above amount, and Tenant's failure to do so shall be a default under this Lease. In the event Landlord transfers its interest in this Lease, Landlord shall transfer the then remaining amount of the Security Deposit to Landlord's successor in interest, and thereafter Landlord shall have no further liability to Tenant with respect to such Security Deposit.

8. POSSESSION

(a) *Tenant's Right of Possession.* Tenant shall be entitled to possession of the Premises upon commencement of the Term.

(b) *Possession.* Tenant shall not be liable for Rent until Landlord delivers possession of the Premises to Tenant. The Expiration Date shall be extended by the same number of days that Tenant's possession of the Premises was delayed beyond the Estimated Commencement Date.

9. USE OF PREMISES

(a) *Permitted Use.* The use of the Premises by Tenant and Tenant's agents, advisors, employees, partners, shareholders, directors, customers, invitees and independent contractors (collectively, "Tenant's Agents") shall be solely for the Permitted Use specified in the Basic Lease Information and for no other use. Tenant shall not permit any smoke, dust, gas, noise or vibration to emanate from or near the Premises. The Premises shall not be used to create any nuisance or trespass, for any illegal purpose, for any purpose not permitted by Laws (as herein defined), for any purpose that would invalidate the insurance or increase the premiums for insurance on the Premises, the Building or the Project or for any purpose or in any manner that would materially interfere with other tenants' use or occupancy of the Project. Tenant agrees to pay to Landlord, as Additional Rent, any increases in premiums on policies resulting from Tenant's Permitted Use or any other use or action by Tenant or Tenant's Agents which increases Landlord's premiums or requires additional coverage by Landlord to insure the Premises.

(b) *Compliance with Governmental Regulations and Private Restrictions.* Tenant and Tenant's Agents shall, at Tenant's expense, faithfully observe and comply with (1) all municipal, state and federal laws, statutes, codes, rules, regulations, ordinances,

requirements, and orders (collectively, "Laws"), now in force or which may hereafter be in force pertaining to the Premises or Tenant's use of the Premises, the Building or the Project, including without limitation, any Laws requiring installation of fire sprinkler systems, seismic reinforcement and related alterations, provided, however, that except as provided in Paragraph 9(c) below, Tenant shall not be required to make or, except as provided in Paragraph 4 above, pay for, structural changes to the Premises or the Building not related to Tenant's specific use of the Premises unless the requirement for such changes is imposed as a result of any improvements or additions made or proposed to be made at Tenant's request; (2) all recorded covenants, conditions and restrictions affecting the Project ("Private Restrictions") now in force or which may hereafter be in force; and (3) the Rules and Regulations (as defined in Paragraph 41 of this Lease). Without limiting the generality of the foregoing, to the extent Landlord is required by the city or county in which the Building is located to maintain carpooling and public transit programs, Tenant shall cooperate in the implementation and use of those programs by and among Tenant's employees. The judgment of any court of competent jurisdiction, or the admission of Tenant in any action or proceeding against Tenant, whether Landlord be a party thereto or not, that Tenant has violated any Laws or Private Restrictions, shall be conclusive of that fact as between Landlord and Tenant.

(c) *Compliance with Americans with Disabilities Act.* Landlord and Tenant hereby agree and acknowledge that the Premises, the Building and/or the Project may be subject to, among other Laws, the requirements of the Americans with Disabilities Act, a federal law codified at 42 U.S.C. 12101 *et seq.*, including, but not limited to Title III thereof, and all regulations and guidelines related thereto, together with any and all laws, rules, regulations, ordinances, codes and statutes now or hereafter enacted by local or state agencies having jurisdiction thereof, as the same may be in effect on the date of this Lease and may be hereafter modified, amended or supplemented (collectively, the "ADA"). Any Tenant Improvements or Tenant Alterations (as hereinafter defined), or nonstructural alterations or improvements constructed by Tenant or Tenant's Agents, to be constructed hereunder shall be in compliance with the requirements of the ADA, and all costs incurred for purposes of compliance therewith shall be a part of and included in the costs of the Tenant Improvements and shall be paid for at the sole cost and expense of Tenant; provided, however, that Tenant shall have the right to contest in good faith the validity of the ADA's application thereto; further, provided however, that it does so diligently, by appropriate proceedings and without prejudice to Landlord, and in the event Tenant shall contest any such claim or demand as a result of such ADA violation or alleged ADA violation, Tenant shall, prior to such contest and as a condition precedent to Tenant's right to contest, promptly provide a bond, cash deposit or other security satisfactory to Landlord should the contest be unsuccessful. If Tenant shall fail to immediately provide such security, Landlord may do so and any and all expenses incurred by Landlord, together with interest thereon at the rate of ten percent (10%) per annum from the date incurred by Landlord until actually paid by Tenant, shall be immediately paid by Tenant upon demand. Tenant shall be solely responsible for conducting its own

independent investigation of this matter and for ensuring that the design of all Tenant Improvements, Tenant's nonstructural alterations and Alterations strictly comply with all requirements of the ADA. If any barrier removal work or other work is required to the Building or the Project under the ADA prior to any nonstructural alterations, Tenant Improvements, and Alterations to the Building or Project made by Tenant, then such work shall be the responsibility of Landlord; provided, if such work is required under the ADA as a result of Tenant's use of the Premises or any work, nonstructural alteration, Tenant Improvement or Alteration made to the Premises by or on behalf of Tenant, then such work shall be performed by Tenant at the sole cost and expense of Tenant, provided, however, that Tenant must receive prior written approval from Landlord of Tenant's plans and specifications for such work and any contractor Tenant proposes to use for such work. Except as otherwise expressly provided in this provision, Tenant shall be responsible at its sole cost and expense for fully and faithfully complying with all applicable requirements of the ADA. Within ten (10) days after receipt, Tenant shall advise Landlord in writing, and provide Landlord with copies of (as applicable), any notices alleging violation of the ADA relating to any portion of the Premises, the Building or the Project; any claims made or threatened orally or in writing regarding noncompliance with the ADA and relating to any portion of the Premises, the Building, or the Project; or any governmental or regulatory actions or investigations instituted or threatened regarding noncompliance with the ADA and relating to any portion of the Premises, the Building or the Project. Tenant shall and hereby agrees to protect, defend (with counsel reasonably acceptable to Landlord) and hold Landlord and Landlord's Agents harmless and indemnify Landlord and Landlord's Agents from and against all liabilities, damages, claims, losses, penalties, judgments, charges and expenses (including attorneys' fees, costs of court and expenses necessary in the prosecution or defense of any litigation including the enforcement of this provision) arising from or directly related to Tenant's or Tenant's Agents' violation of the ADA. Tenant agrees that the obligations of Tenant herein shall survive the expiration or earlier termination of this Lease. Notwithstanding anything contained herein to the contrary, if any governmental body with jurisdiction over the Building notifies Landlord or Tenant that an elevator must be installed in the Building in order for the Building to comply with the ADA, then the Landlord will pay for the installation of an elevator in the Building; provided, however, Landlord will not be required to expend more than Fifty Thousand and No/100 U.S. Dollars (\$50,000.00) for the installation of such elevator. If the cost of installation of such elevator is in excess of Fifty Thousand and No/100 U.S. Dollars (\$50,000.00), Tenant at Tenant's option, may either (i) pay the costs thereof in excess of \$50,000.00 or (ii) terminate this Lease by providing written notice to Landlord within the time herein specified. If Tenant fails to so terminate this Lease by providing written notice to Landlord within thirty (30) days following the date Landlord notifies Tenant that the cost of such elevator will exceed \$50,000.00, Tenant shall not have the right to terminate this Lease and will be obligated to pay such excess costs.

(d) **Roof Access.** With Landlord's prior written consent, such consent not to be unreasonably withheld, Tenant shall have access to the roof of the Building or have the right to install, operate or maintain a satellite-earth communications station (antenna and associated equipment), microwave equipment and/or an FM antenna on the Building or the Project.

10. ACCEPTANCE OF PREMISES

By entry hereunder, Tenant accepts the Premises as suitable for Tenant's intended use and as being in good and sanitary operating order, condition and repair, "AS IS," and without representation or warranty by Landlord as to the condition, use or occupancy which may be made thereof except for latent defects to the Building. Any exceptions to the foregoing must be by written agreement executed by Landlord and Tenant.

11. SURRENDER

Tenant agrees that on the last day of the Term or any Extended Term, or on the sooner termination of this Lease, Tenant shall surrender the Premises to Landlord (a) in good condition and repair (damage by acts of God, fire, and normal wear and tear excepted), but with all roll-up doors, docks, dock levelers and plumbing fixtures in good condition and working order, and (b) otherwise in accordance with Paragraph 32(h) of this Lease. Normal wear and tear shall not include any damage or deterioration to the floors of the Premises arising from the use of forklifts in, on or about the Premises (including, without limitation, any marks or stains on any portion of the floors), and any damage or deterioration that would have been prevented by proper maintenance by Tenant, or Tenant otherwise performing all of its obligations under this Lease. On or before the expiration or sooner termination of this Lease, (i) Tenant shall remove all of Tenant's Property (as hereinafter defined) and Tenant's signage from the Premises, the Building and the Project and repair any damage caused by such removal, and (ii) Landlord may, by notice to Tenant given not later than ninety (90) days prior to the Expiration Date (except in the event of a termination of this Lease prior to the scheduled Expiration Date, in which event no advance notice shall be required), require Tenant at Tenant's expense to remove any or all Alterations, and to repair any damage caused by such removal. Any of Tenant's Property not so removed by Tenant as required herein shall be deemed abandoned and may be stored, removed, and disposed of by Landlord at Tenant's expense, and Tenant waives all claims against Landlord for any damages resulting from Landlord's retention and disposition of such property; provided, however, that Tenant shall remain liable to Landlord for all costs incurred in storing and disposing of such abandoned property of Tenant. All Tenant Improvements and Alterations except those which Landlord requires Tenant to remove shall remain in the Premises as the property of Landlord.

12. ALTERATIONS AND ADDITIONS

(a) Tenant shall not make, or permit to be made, any structural alteration, addition or improvement (hereinafter referred to individually as an "Alteration" and collectively as the "Alterations") to the Premises or any part thereof without the prior written consent of Landlord, which consent shall not be unreasonably withheld; provided, however, that Tenant shall have the absolute right, without Landlord's consent, to make non-structural changes and improvements to the Building; provided, however, at the end of the Term or any Extended Term, as the case may be, Tenant, at Tenant's sole cost and expense, shall return the Premises to their original condition (ordinary wear and tear excepted) and repair any damage to the Premises caused by such non-structural alterations or improvements, including without limitation any damage caused by the removal of any private telephone systems and/or other related computer or telecommunications equipment or lines which have been installed in the Building by Tenant or any of Tenant's sublessees.

(b) Any Alteration to the Premises shall be at Tenant's sole cost and expense, in compliance with all applicable Laws and all requirements requested by Landlord, including, without limitation, the requirements of any insurer providing coverage for the Premises or the Project or any part thereof, and in accordance with plans and specifications approved in writing by Landlord, and shall be constructed and installed by a contractor approved in writing by Landlord. In connection with any Alterations, Tenant shall deliver plans and specifications therefor to Landlord. As a further condition to giving consent, Landlord may require Tenant to provide Landlord, at Tenant's sole cost and expense, a payment and performance bond in form acceptable to Landlord, in a principal amount not less than one and one-half times the estimated costs of such Alterations, to ensure Landlord against any liability for mechanic's and materialmen's liens and to ensure completion of work. Before Alterations may begin, valid building permits or other permits or licenses required must be furnished to Landlord, and, once the Alterations begin, Tenant will diligently and continuously pursue their completion. Landlord may monitor construction of the Alterations and Tenant shall reimburse Landlord for its reasonable costs (including, without limitation, the costs of any construction manager retained by Landlord) in reviewing plans and documents and in monitoring construction. Tenant shall maintain during the course of construction, at its sole cost and expense, builders' risk insurance for the amount of the completed value of the Alterations on an all-risk non-reporting form covering all improvements under construction, including building materials, and other insurance in amounts and against such risks as Landlord shall reasonably require in connection with the Alterations. In addition to and without limitation on the generality of the foregoing, Tenant shall ensure that its contractor(s) procure and maintain in full force and effect during the course of construction a "broad form" commercial general liability and property damage policy of insurance naming Landlord, Tenant, any property manager designated by Landlord and Landlord's lenders as additional insureds. The minimum limit of coverage of the

aforesaid policy shall be in the amount of not less than Three Million and No/100 U.S. Dollars (\$3,000,000.00) for injury or death of one person in any one accident or occurrence and in the amount of not less than Three Million Dollars (\$3,000,000.00) for injury or death of more than one person in any one accident or occurrence, and shall contain a severability of interest clause or a cross liability endorsement. Such insurance shall further insure Landlord and Tenant against liability for property damage of at least One Million and No/100 U.S. Dollars (\$1,000,000.00).

(c) All Alterations, including, but not limited to, heating, lighting, electrical, air conditioning, fixed partitioning, window coverings, wall covering and paneling, built-in cabinet work and carpeting installations made by Tenant, together with all property that has become an integral part of the Premises or the Building, shall at once be and become the property of Landlord, and shall not be deemed trade fixtures or Tenant's Property. If requested by Landlord, Tenant will pay, prior to the commencement of construction, an amount determined by Landlord necessary to cover the costs of demolishing such Alterations and/or the cost of returning the Premises and the Building to its condition prior to such Alterations.

(d) Notwithstanding anything herein to the contrary, before installing any equipment or lights which generate an undue amount of heat in the Premises, or if Tenant plans to use any high-power usage equipment in the Premises, Tenant shall obtain the written consent of Landlord, which consent shall not be unreasonably withheld. Landlord may refuse to grant such consent if Tenant does not agree to pay the costs to Landlord for installation of supplementary air conditioning capacity or electrical systems necessitated by such equipment.

(e) Tenant agrees not to proceed to make any Alterations, notwithstanding consent from Landlord to do so, until Tenant notifies Landlord in writing of the date Tenant desires to commence construction or installation of such Alterations and Landlord has approved such date in writing, in order that Landlord may post appropriate notices to avoid any liability to contractors or material suppliers for payment for Tenant's improvements. Tenant will at all times permit such notices to be posted and to remain posted until the completion of work.

(f) Tenant shall not, at any time prior to or during the Term or any Extended Term, directly or indirectly employ, or permit the employment of, any contractor, mechanic or laborer in the Premises, whether in connection with any Alteration or otherwise, if it is reasonably foreseeable that such employment will materially interfere or cause any material conflict with other contractors, mechanics, or laborers engaged in the construction, maintenance or operation of the Project by Landlord, Tenant or others. In the event of any such interference or conflict, Tenant, upon demand of Landlord, shall cause all contractors, mechanics or laborers causing such interference or conflict to leave the Project immediately.

13. MAINTENANCE AND REPAIRS OF PREMISES

(a) *Maintenance by Tenant.* Throughout the Term or any Extended Term, Tenant shall, at its sole expense, (1) keep and maintain in good order and condition the Premises (ordinary wear and tear excepted), and repair and replace every part thereof, including glass, windows, window frames, window casements, skylights, interior and exterior doors, door frames and door closers; interior lighting (including, without limitation, light bulbs and ballasts), the plumbing and electrical systems exclusively serving the Premises, all communications systems serving the Premises, Tenant's signage, interior demising walls and partitions, equipment, interior painting and interior walls and floors, and the roll-up doors, ramps and dock equipment, including, without limitation, dock bumpers, dock plates, dock seals, dock levelers and dock lights located in or on the Premises (excepting only those portions of the Building or the Project to be maintained by Landlord, as provided in Paragraph 13(b) below), (2) furnish all expendables, including light bulbs, paper goods and soaps, used in the Premises, and (3) keep and maintain in good order and condition, repair and replace all of Tenant's security systems in or about or serving the Premises and, except to the extent that Landlord notifies Tenant in writing of its intention to arrange for such monitoring, cause the fire alarm systems serving the Premises to be monitored by a monitoring or protective services firm approved by Landlord in writing. Tenant shall not do nor shall Tenant allow Tenant's Agents to do anything to cause any damage, deterioration or unsightliness to the Premises, the Building or the Project.

(b) *Maintenance by Landlord.* Subject to the provisions of Paragraphs 13(a), 21 and 22, and further subject to Tenant's obligation under Paragraph 4 to reimburse Landlord, in the form of Additional Rent, for Tenant's Proportionate Share(s) of the cost and expense of the following items, Landlord agrees to repair and maintain the following items: the roof coverings (provided that Tenant installs no additional air conditioning or other equipment on the roof that damages the roof coverings, in which event Tenant shall pay all costs resulting from the presence of such additional equipment). Subject to the provisions of Paragraphs 13(a), 21 and 22, Landlord, at its own cost and expense, agrees to repair and maintain the following items: the structural portions of the roof (specifically excluding the roof coverings), the foundation, the footings, the floor slab, and the load bearing walls and exterior walls of the Building (excluding any glass and any routine maintenance, including, without limitation, any painting, sealing, patching and waterproofing of such walls). Landlord also agrees to mow the adjacent lot ("Adjacent Lot") next to the Premises, such lot being more particularly described on Exhibit G. Nothing contained in this Lease shall limit the Landlord's right to use, develop or sell the Adjacent Lot. Notwithstanding anything in this Paragraph 13 to the contrary, Landlord shall have the right to either repair or to require Tenant to repair any damage to any portion of the Premises, the Building and/or the Project caused by or created due to any act, omission, negligence or willful misconduct of Tenant or Tenant's Agents and to restore the Premises, the Building and/or the Project, as applicable, to the condition

existing prior to the occurrence of such damage; provided, however, that in the event Landlord elects to perform such repair and restoration work, Tenant shall reimburse Landlord upon demand for all costs and expenses incurred by Landlord in connection therewith. Landlord's obligation hereunder to repair and maintain is subject to the condition precedent that Landlord shall have received written notice of the need for such repairs and maintenance and a reasonable time to perform such repair and maintenance. Tenant shall promptly report in writing to Landlord any defective condition known to it which Landlord is required to repair, and failure to so report such defects shall make Tenant responsible to Landlord for any liability incurred by Landlord by reason of such condition.

14. LANDLORD'S INSURANCE

Landlord shall purchase and keep in force fire, extended coverage and "all risk" insurance covering the Building and the Project. Tenant shall, at its sole cost and expense, comply with any and all reasonable requirements pertaining to the Premises, the Building and the Project of any insurer necessary for the maintenance of reasonable fire and commercial general liability insurance, covering the Building and the Project. Landlord may maintain "Loss of Rents" insurance, insuring that the Rent will be paid in a timely manner to Landlord for a period of at least twelve (12) months if the Premises, the Building or the Project or any portion thereof are destroyed or rendered unusable or inaccessible by any cause insured against under this Lease.

15. TENANT'S INSURANCE

(a) *Commercial General Liability Insurance.* Tenant shall, at Tenant's expense, secure and keep in force a "broad form" commercial general liability insurance and property damage policy covering the Premises, insuring Tenant, and naming Landlord, Landlord's agents, and Landlord's lenders as additional insureds, against any liability arising out of the ownership, use, occupancy or maintenance of the Premises. The minimum limit of coverage of such policy shall be in the amount of not less than Two Million and No/100 U.S. Dollars (\$2,000,000.00) for injury or death of one person in any one accident or occurrence and in the amount of not less than Two Million and No/100 U.S. Dollars (\$2,000,000.00) for injury or death of more than one person in any one accident or occurrence, shall include an extended liability endorsement providing contractual liability coverage (which shall include coverage for Tenant's indemnification obligations in this Lease), and shall contain a severability of interest clause or a cross liability endorsement. Such insurance shall further insure Landlord and Tenant against liability for property damage of at least Two Million and No/100 U.S. Dollars (\$2,000,000.00). Landlord may from time to time require reasonable increases in any such limits if Landlord believes that additional coverage is necessary or desirable. The limit of any insurance shall not limit the liability of Tenant hereunder. No policy shall be cancelable or subject to reduction of coverage without thirty (30) days prior written notice

to Landlord. Such policies of insurance shall be issued as primary policies and not contributing with or in excess of coverage that Landlord may carry, by an insurance company authorized to do business in the state/commonwealth in which the Premises are located for the issuance of such type of insurance coverage and rated B+:XIII or better in Best's Key Rating Guide.

(b) *Personal Property Insurance.* Tenant shall maintain in full force and effect on all of its personal property, furniture, furnishings, trade or business fixtures and equipment (collectively, "Tenant's Property") on the Premises, a policy or policies of fire and extended coverage insurance with standard coverage endorsement to the extent of the full replacement cost thereof. During the Term of this Lease the proceeds from any such policy or policies of insurance shall be used for the repair or replacement of the fixtures and equipment so insured. Landlord shall have no interest in the insurance upon Tenant's equipment and fixtures and will sign all documents reasonably necessary in connection with the settlement of any claim or loss by Tenant. Landlord will not carry insurance on Tenant's possessions.

(c) *Worker's Compensation Insurance; Employer's Liability Insurance.* Tenant shall, at Tenant's expense, maintain in full force and effect worker's compensation insurance with not less than the minimum limits required by law, and employer's liability insurance with a minimum limit of coverage of One Million and No/100 U.S. Dollars (\$1,000,000).

(d) *Evidence of Coverage.* Tenant shall deliver to Landlord certificates of insurance and true and complete copies of any and all endorsements required herein for all insurance required to be maintained by Tenant hereunder at the time of execution of this Lease by Tenant. Tenant shall, at least thirty (30) days prior to expiration of each policy, furnish Landlord with certificates of renewal thereof. Each certificate shall expressly provide that such policies shall not be cancelable or otherwise subject to modification except after thirty (30) days prior written notice to Landlord and the other parties named as additional insureds as required in this Lease (except for cancellation for nonpayment of premium, in which event cancellation shall not take effect until at least ten (10) days notice has been given to Landlord).

16. INDEMNIFICATION

(a) *Of Landlord.* Tenant shall defend, protect, indemnify and hold harmless Landlord and Landlord's Agents against and from any and all claims, suits, liabilities, judgments, costs, demands, causes of action and expenses (including, without limitation, reasonable attorneys' fees, costs and disbursements) arising from (1) the use of the Premises, the Building or the Project by Tenant or Tenant's Agents, or from any activity done, permitted or suffered by Tenant or Tenant's Agents in or about the Premises, the Building or the Project, and (2) any act, neglect, fault, willful misconduct or omission of

Tenant or Tenant's Agents, or from any breach or default in the terms of this Lease by Tenant or Tenant's Agents, and (3) any action or proceeding brought on account of any matter in items (1) or (2), even though caused or alleged to be caused by the joint, comparative, or concurrent negligence or fault of Landlord or its employees and agents, provided that this indemnity shall not apply to the gross negligence or willful misconduct of Landlord or its employees or agents. If any action or proceeding is brought against Landlord by reason of any such claim, upon notice from Landlord, Tenant shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord. As a material part of the consideration to Landlord, Tenant hereby releases Landlord and Landlord's Agents from responsibility for, waives its entire claim of recovery for and assumes all risk of (i) damage to property or injury to persons in or about the Premises, the Building or the Project from any cause whatsoever (except that which is caused by the sole active gross negligence or willful misconduct of Landlord or Landlord's Agents or by the failure of Landlord to observe any of the terms and conditions of this Lease, if such failure has persisted for an unreasonable period of time after written notice of such failure), or (ii) loss resulting from business interruption or loss of *income* at the Premises. The obligations of Tenant under this Paragraph 16 shall survive any termination of this Lease. Notwithstanding the foregoing, in no event will Tenant be liable for any consequential, special, punitive or other than actual damages suffered by Landlord.

(b) *No Impairment of Insurance.* The foregoing indemnity shall not relieve any insurance carrier of its obligations under any policies required to be carried by either party pursuant to this Lease, to the extent that such policies cover the peril or occurrence that results in the claim that is subject to the foregoing indemnity.

(c) *Of Tenant.* Landlord shall defend, protect, indemnify and hold harmless Tenant and Tenant's agents against and from any and all claims, suits, liabilities, judgments, costs, demands, causes of action and expenses (including without limitation reasonable attorneys' fees, costs and disbursements) arising from (1) the Landlord's or Landlord's Agents entry upon the Premises except as permitted by this Lease and (2) any act, neglect, fault, willful misconduct or omission of Landlord (or Landlord's Agents) in carrying out its obligations under this Lease and (3) any action or proceeding brought on account of any matters in items (1) or (2), except those caused by the willful or grossly negligent acts of Tenant or Tenant's Agents. If any action or proceeding is brought against Tenant by reason of any such claim, upon notice from Landlord, Tenant shall defend the same at Landlord's expense by counsel reasonably satisfactory to Tenant. Notwithstanding the foregoing, in no event will Landlord be liable for any consequential, special, punitive or other damages other than actual damages suffered by Tenant.

17. SUBROGATION

Landlord and Tenant hereby mutually waive any claim against the other and its Agents for any loss or damage to any of their property located on or about the Premises,

the Building or the Project that is caused by or results from perils covered by property insurance carried by the respective parties, to the extent of the proceeds of such insurance actually received with respect to such loss or damage, whether or not due to the negligence of the other party or its Agents. Because the foregoing waivers will preclude the assignment of any claim by way of subrogation to an insurance company or any other person, each party now agrees to immediately give to its insurer written notice of the terms of these mutual waivers and shall have their insurance policies endorsed to prevent the invalidation of the insurance coverage because of these waivers. Nothing in this Paragraph 17 shall relieve a party of liability to the other for failure to carry insurance required by this Lease.

18. SIGNS

Tenant shall not place or permit to be placed in, upon, or about the Premises, the Building or the Project any exterior lights, decorations, balloons, flags, pennants, banners, advertisements or notices, or erect or install any signs, windows or door lettering, placards, decorations, or advertising media of any type which can be viewed from the exterior the Premises without obtaining Landlord's prior written consent, which consent shall not be unreasonably withheld. Tenant shall remove any sign, advertisement or notice placed on the Premises, the Building or the Project by Tenant upon the expiration of the Term or sooner termination of this Lease, and Tenant shall repair any damage or injury to the Premises, the Building or the Project caused thereby, all at Tenant's expense. If any signs are not removed, or necessary repairs not made, Landlord shall have the right to remove the signs and repair any damage or injury to the Premises, the Building or the Project at Tenant's sole cost and expense. In addition to any other rights or remedies available to Landlord, in the event that Tenant erects or installs any sign in violation of this Paragraph 18, and Tenant fails to remove same within three (3) business days after notice from Landlord or erects or installs a similar sign in the future, Landlord shall have the right to charge Tenant a signage fee equal to \$200.00 per day for each day thereafter that such sign is not removed or a similar sign is installed or erected in the future. Landlord's election to charge such fee shall not be deemed to be a consent by Landlord to such sign and Tenant shall remain obligated to remove such sign in accordance with Landlord's notice.

19. FREE FROM LIENS

Tenant shall keep the Premises, the Building and the Project free from any liens arising out of any work performed, material furnished or obligations incurred by or for Tenant. In the event that Tenant shall not, within thirty (30) days following the imposition of any such lien, cause the lien to be released of record by payment or posting of a proper bond, Landlord shall have in addition to all other remedies provided herein and by law the right but not the obligation to cause same to be released by such means as it shall deem proper, including payment of the claim giving rise to such lien. All such

sums paid by Landlord and all expenses incurred by it in connection therewith (including, without limitation, reasonable attorneys' fees) shall be payable to Landlord by Tenant upon demand. Landlord shall have the right at all times to post and keep posted on the Premises any notices permitted or required by law or that Landlord shall deem proper for the protection of Landlord, the Premises, the Building and the Project, from mechanics' and materialmen's liens. Tenant shall give to Landlord at least five (5) business days' prior written notice of commencement of any repair or construction on the Premises.

20. ENTRY BY LANDLORD

Tenant shall permit Landlord and Landlord's Agents to enter into and upon the Premises at all reasonable times, upon reasonable notice (except in the case of an emergency, for which no notice shall be required), and subject to Tenant's reasonable security arrangements, for the purpose of inspecting the same or showing the Premises to prospective purchasers, lenders or tenants or to alter, improve, maintain and repair the Premises or the Building as required or permitted of Landlord under the terms hereof, or for any other business purpose, without any rebate of Rent and without any liability to Tenant for any loss of occupation or quiet enjoyment of the Premises thereby occasioned (except for actual damages resulting from the sole active gross negligence or willful misconduct of Landlord); and Tenant shall permit Landlord to post notices of non-responsibility and ordinary "for sale" or "for lease" signs. No such entry shall be construed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an eviction or constructive eviction of Tenant from the Premises. Landlord may temporarily close entrances, doors, corridors, elevators or other facilities without liability to Tenant by reason of such closure in the case of an emergency and when Landlord otherwise deems such closure necessary.

21. DESTRUCTION AND DAMAGE

(a) If the Premises are damaged by fire or other perils covered by extended coverage insurance, Tenant shall give Landlord immediate notice thereof and Landlord shall, at Landlord's option:

(1) In the event of total destruction (which shall mean destruction or damage in excess of seventy-five percent (75%) of the full insurable value thereof) of the Premises, elect either to commence promptly to repair and restore the Premises and prosecute the same diligently to completion, in which event this Lease shall remain in full force and effect; or not to repair or restore the Premises, in which event this Lease shall terminate. Landlord shall give Tenant written notice of its intention within sixty (60) days after the date (the "Casualty Discovery Date") Landlord obtains actual knowledge of such destruction. If Landlord elects not to restore the Premises within one hundred eighty (180) days, this Lease shall be deemed to have terminated as of the Casualty Discovery Date.

(2) In the event of a partial destruction (which shall mean destruction or damage to an extent not exceeding seventy-five percent (75%) of the full insurable value thereof) of the Premises for which Landlord will receive insurance proceeds sufficient to cover the cost to repair and restore such partial destruction and, if the damage thereto is such that the Premises may be substantially repaired or restored to its condition existing immediately prior to such damage or destruction within one hundred eighty (180) days from the Casualty Discovery Date, Landlord shall commence and proceed diligently with the work of repair and restoration, in which event the Lease shall continue in full force and effect. If such repair and restoration requires longer than one hundred eighty (180) days or if the insurance proceeds therefor (plus any amounts Tenant may elect or is obligated to contribute) are not sufficient to cover the cost of such repair and restoration, Landlord may elect either to so repair and restore, in which event the Lease shall continue in full force and effect, or not to repair or restore, in which event the Lease shall terminate. In either case, Landlord shall give written notice to Tenant of its intention within sixty (60) days after the Casualty Discovery Date. If Landlord elects not to restore the Premises, this Lease shall be deemed to have terminated as of the Casualty Discovery Date.

(3) Notwithstanding anything to the contrary contained in this Paragraph, in the event of damage to the Premises occurring during the last twelve (12) months of the Term or any Extended Term, Landlord or Tenant may elect to terminate this Lease by written notice of such election given to the other party within thirty (30) days after the Casualty Discovery Date.

(b) If the Premises are damaged by any peril not fully covered by insurance proceeds to be received by Landlord, and the cost to repair such damage exceeds any amount Tenant may agree to contribute, Landlord may elect either to commence promptly to repair and restore the Premises and prosecute the same diligently to completion, in which event this Lease shall remain in full force and effect; or not to repair or restore the Premises, in which event this Lease shall terminate. Landlord shall give Tenant written notice of its intention within sixty (60) days after the Casualty Discovery Date. If Landlord elects not to restore the Premises, this Lease shall be deemed to have terminated as of the date on which Tenant surrenders possession of the Premises to Landlord, except that if the damage to the Premises materially impairs Tenant's ability to continue its business operations in the Premises, then this Lease shall be deemed to have terminated as of the date such damage occurred.

(c) Notwithstanding anything to the contrary in this Paragraph 21, Landlord shall have the option to terminate this Lease, exercisable by notice to Tenant within sixty (60) days after the Casualty Discovery Date, in each of the following instances:

(1) If more than twenty-five percent (25%) of the full insurable value of the Building or the Project is damaged or destroyed, regardless of whether or not the Premises is destroyed.

(2) If the Building or the Project or any portion thereof is damaged or destroyed and the repair and restoration of such damage requires longer than one hundred twenty (120) days from the Casualty Discovery Date, regardless of whether or not the Premises is destroyed.

(3) If the Building or the Project or any portion thereof is damaged or destroyed and the insurance proceeds therefor are not sufficient to cover the costs of repair and restoration, regardless of whether or not the Premises is destroyed.

(4) If the Building or the Project or any portion thereof is damaged or destroyed during the last twelve (12) months of the Term or any Extended Term regardless of whether or not the Premises is destroyed.

(d) In the event of repair and restoration as herein provided, the monthly installments of Base Rent shall be abated proportionately in the ratio which Tenant's use of the Premises is impaired during the period of such repair or restoration, but only to the extent of rental abatement insurance proceeds received by Landlord; provided, however, that Tenant shall not be entitled to such abatement to the extent that such damage or destruction resulted from the acts or inaction of Tenant or Tenant's Agents. Except as expressly provided in the immediately preceding sentence with respect to abatement of Base Rent, Tenant shall have no claim against Landlord for, and hereby releases Landlord and Landlord's Agents from responsibility for and waives its entire claim of recovery for any cost, loss or expense suffered or incurred by Tenant as a result of any damage to or destruction of the Premises, the Building or the Project or the repair or restoration thereof, including, without limitation, any cost, loss or expense resulting from any loss of use of the whole or any part of the Premises, the Building or the Project and/or any inconvenience or annoyance occasioned by such damage, repair or restoration.

(e) If Landlord is obligated to or elects to repair or restore as herein provided, Landlord shall repair or restore only the initial tenant improvements, if any, constructed by Landlord in the Premises pursuant to the terms of this Lease, substantially to their condition existing immediately prior to the occurrence of the damage or destruction; and Tenant shall promptly repair and restore, at Tenant's expense, Tenant's Alterations which were not constructed by Landlord.

22. CONDEMNATION

(a) Landlord shall notify Tenant in writing of any taking or condemnation that will affect the Premises or any part thereof. If twenty-five percent (25%) or more of either the

Premises, the Building or the Project or the parking areas for the Building or the Project is taken for any public or quasi-public purpose by any lawful governmental power or authority, by exercise of the right of appropriation, inverse condemnation, condemnation or eminent domain, or sold to prevent such taking (each such event being referred to as a "Condemnation"), Landlord may, at its option, terminate this Lease as of the date title vests in the condemning party. If twenty-five percent (25%) or more of the Premises is taken and if the Premises remaining after such Condemnation and any repairs by Landlord would be untenable for the conduct of Tenant's business operations in Tenant's reasonable discretion, Tenant shall have the right to terminate this Lease as of the date title vests in the condemning party. If either party elects to terminate this Lease as provided herein, such election shall be made by written notice to the other party given within thirty (30) days after the nature and extent of such Condemnation have been finally determined. If neither Landlord nor Tenant elects to terminate this Lease to the extent permitted above, Landlord shall promptly proceed to restore the Premises, to the extent of any Condemnation award received by Landlord, to substantially the same condition as existed prior to such Condemnation, allowing for the reasonable effects of such Condemnation, and a proportionate abatement shall be made to the Base Rent corresponding to the time during which, and to the portion of the floor area of the Premises (adjusted for any increase thereto resulting from any reconstruction) of which, Tenant is deprived on account of such Condemnation and restoration, as reasonably determined by Landlord. Except as expressly provided in the immediately preceding sentence with respect to abatement of Base Rent, Tenant shall have no claim against Landlord for, and hereby releases Landlord and Landlord's Agents from responsibility for and waives its entire claim of recovery for any cost, loss or expense suffered or incurred by Tenant as a result of any Condemnation or the repair or restoration of the Premises, the Building or the Project or the parking areas for the Building or the Project following such Condemnation, including, without limitation, any cost, loss or expense resulting from any loss of use of the whole or any part of the Premises, the Building, the Project or the parking areas and/or any inconvenience or annoyance occasioned by such Condemnation, repair or restoration.

(b) Landlord shall be entitled to any and all compensation, damages, income, rent, awards, or any interest therein whatsoever which may be paid or made in connection with any Condemnation, and Tenant shall have no claim against Landlord for the value of any unexpired term of this Lease or otherwise; provided, however, that Tenant shall be entitled to receive any award separately allocated by the condemning authority to Tenant for Tenant's relocation expenses or the value of Tenant's Property (specifically excluding fixtures, Alterations and other components of the Premises which under this Lease or by law are or at the expiration of the Term or any Extended Term will become the property of Landlord), provided that such award does not reduce any award otherwise allocable or payable to Landlord.

23. ASSIGNMENT AND SUBLETTING

(a) Except for Permitted Transfers (as defined below), Tenant shall not voluntarily or by operation of law, (1) mortgage, pledge, hypothecate or encumber this Lease or any interest herein, (2) assign or transfer this Lease or any interest herein, or any right or privilege appurtenant thereto, or allow any other person (the employees and invitees of Tenant excepted) to occupy or use the Premises, or any portion thereof, without first obtaining the written consent of Landlord, which consent may be withheld in Landlord's reasonable discretion and in accordance with the terms hereof. Except for complete assignments of the Tenant's rights that constitute Permitted Transfers, any assignment without Landlord's consent shall be void, and shall, at the option of Landlord, constitute a Default under this Lease. A consent to one assignment, occupation or use shall not be deemed to be a consent to any other or subsequent assignment, occupation or use, and consent to any assignment shall in no way relieve Tenant of any liability under this Lease. Any assignment or sublease shall contain a provision directing the assignee or subtenant to pay the rent and other sums due thereunder directly to Landlord upon receiving written notice from Landlord that Tenant is in default under this Lease with respect to the payment of Rent. Landlord's collection of such rent and other sums shall not constitute an acceptance by Landlord of attornment by such assignee or subtenant.

(b) Notwithstanding anything contained herein to the contrary, Tenant may sublet all or any part of the Premises to one or more subtenants, provided, Tenant shall remain obligated to perform all of the obligations, terms and conditions of this Lease.

(c) Notwithstanding anything to the contrary contained in this Paragraph 23, Tenant, upon written notice to Landlord, but without Landlord's consent, shall have the absolute right at any time to assign and sublet this Lease under the following circumstances:

- (1) assign this Lease to any Successor (as defined below) or Business Group (as defined below);
- (2) assign this Lease to or sublet all or any portion of the Premises or allow the Premises to be used by, any Affiliate (as hereinafter defined below) and sublet all or any portion of the Premises to, or allow the Premises to be used by any Business Group (as defined below). For the purposes of this Lease, the following terms shall have the following meanings:

"Affiliate" means any person or entity which controls, is controlled by or is under common control with Tenant. For purposes of the preceding sentence, "control" means either (i) ownership or voting control, directly or indirectly, of 50% or more of the voting stock, partnership interests or other beneficial ownership interests of the entity in question or (ii) the legal right to control the

actions of an entity (e.g., general partner of a limited partnership, a managing member of a limited liability company, or the contractual right to control the actions of an entity).

"Successor" means any one of the following: (i) an entity resulting from a merger, consolidation, corporate reorganization, or recapitalization of or with Tenant or (ii) a purchaser (or other transferee) of all or substantially all of Tenant's assets and all or substantially all of Tenant's liabilities (including the liabilities of Tenant hereunder).

"Business Group" means (i) any entity which acquires all or substantially all of the business of any division of, or other operational group within, Tenant, which division or other operational group(a) with respect to an assignment, is the primary occupant of the Premises or (b) with respect to a sublease shall be the primary occupant of the portion of the Premises so subleased, prior to such acquisition (including an entity created pursuant to a spin-off of such division or other group, or (ii) an entity which has an active and ongoing business relationship with Tenant and in which entity Tenant is the holder of no less than fifteen percent (15%) of such entity's equity interest.

Items one (1) and two (2) of this subsection (c) shall be referred to herein as "Permitted Transfers".

(d) Except for complete assignments of the Tenant's rights that constitute Permitted Transfers, without otherwise limiting the criteria upon which Landlord may withhold its consent, Landlord shall be entitled to consider all reasonable criteria including, but not limited to, the following in whether to grant its consent to any assignment: (i) whether or not the proposed assignee is engaged in a business which, in the use of the Premises will be in a manner which, is in keeping with the character and nature of the Project, (ii) whether the use to be made of the Premises by the proposed assignee will be prohibited by any portion of this Lease, including but not limited to, any rules and regulations that are in effect, or under applicable Laws, and whether such use imposes a greater load upon the Premises and the Building and Project services than imposed by Tenant, (iii) the business reputation and the proposed individuals who will be managing and operating the business operations of the assignee, and the long term financial and competitive business prospects of the proposed assignee, and (iv) the tangible net worth of any proposed assignee (as evidenced by the audited financial statements of any proposed assignee which shall be provided to Landlord upon Landlord's request) must be equivalent to the tangible net worth of the Guarantor of this Lease as of the date of this Lease, and (v) the creditworthiness and financial stability of the proposed assignee in light of the responsibilities involved. Except for complete assignments of the Tenant's rights that constitute Permitted Transfers, in any event, Landlord may withhold its consent to any assignment, if (i) the actual use proposed to be

conducted in the Premises or portion thereof conflicts with the provisions of Paragraph 9(a) or (b) above, (ii) the proposed assignment requires alterations, improvements or additions to the Premises or portions thereof, (iii) the proposed assignee is either a governmental agency or instrumentality thereof, (iv) the proposed assignee, or any person or entity which directly or indirectly, controls, is controlled by or is under common control with, the proposed assignee either (x) occupies space in the Project at the time when the request for consent or (y) is negotiating with Landlord or has negotiated with Landlord during the six (6) month period immediately proceeding the date Landlord receives Tenant's request for consent, to lease space in the Project.

(e) Except for Permitted Transfers that constitute a complete assignment of the Tenant's rights but not any subletting, notwithstanding any assignment or subletting, Tenant shall at all times remain fully and primarily responsible and liable for the payment of the Rent and for compliance with all of Tenant's other obligations under this Lease (regardless of whether Landlord's approval has been obtained for any such assignment or subletting).

(f) If this Lease is assigned, whether or not in violation of the provisions of this Lease, Landlord may collect Rent from the assignee. If the Premises or any part thereof is sublet or used or occupied by anyone other than Tenant, whether or not in violation of this Lease, Landlord may, after an Event of Default by Tenant, collect Rent from the subtenant or occupant. In either event, Landlord may apply the net amount collected to Rent, but no such assignment, subletting, occupancy or collection shall be deemed a waiver of any of the provisions of this Paragraph 23, or the acceptance of the assignee, subtenant or occupant as tenant, or a release of Tenant from the further performance by Tenant of Tenant's obligations under this Lease. The consent by Landlord to any mortgaging, pledging, encumbering, assignment, transfer, use, occupancy, assignment or subletting pursuant to any provision of this Lease shall not, except as otherwise provided herein, in any way be considered to relieve Tenant from obtaining the express consent of Landlord to any other or further mortgaging, pledging, encumbering, transfer, use, occupancy, assignment or subletting. References in this Lease to use or occupancy by anyone other than Tenant shall not be construed as limited to subtenants and those claiming under or through subtenants but as including also licensees or others claiming under or through Tenant, immediately or remotely. The listing of any name other than that of Tenant on any door of the Premises or on any directory or in any elevator in the Building, or otherwise, shall not, except as otherwise provided herein, operate to vest in the person so named any right or interest in this Lease or in the Premises, or be deemed to constitute, or serve as a substitute for, or any waiver of, any prior consent of Landlord required under this Paragraph 23.

(g) Notwithstanding anything in this Lease to the contrary, except for Permitted Transfers, in the event Landlord consents to an assignment or subletting by Tenant in accordance with the terms of this Paragraph 23, Tenant's assignee or subtenant shall have

no further right to further assign or sublet all or any portion of the Premises, without obtaining Landlord's prior written consent, such consent not to be unreasonably withheld. In furtherance of the foregoing, Tenant acknowledges and agrees on behalf of itself and any assignee or subtenant claiming under it (and any such assignee or subtenant by accepting such assignment or sublease shall be deemed to acknowledge and agree) that no sub-subleases or further assignments of this Lease shall be permitted at any time without the prior written consent of Landlord such consent not to be unreasonably withheld.

(h) Each subletting and/or assignment pursuant to this Paragraph shall be subject to all of the covenants, agreements, terms, provisions and conditions contained in this Lease, and each of the covenants, agreements, terms, provisions and conditions of this Lease shall be automatically incorporated therein. If Landlord shall consent to, or reasonably withhold its consent to, any proposed assignment as permitted by this Lease, Tenant shall indemnify, defend and hold harmless Landlord against and from any and all loss, liability, damages, costs and expenses (including reasonable counsel fees) resulting from any claims that may be made against Landlord by the proposed assignee or by any brokers or other persons claiming a commission or similar in connection with the proposed assignment or any proposed sublease.

(i) Notwithstanding anything to the contrary contained herein, the Tenant may, with Landlord's prior written consent, such consent not to be unreasonably withheld, enter into license agreements in connection with the Premises pursuant to which it licenses the use of a part of the Premises during the Term, provided such license agreements are (i) subordinate to this Lease, (ii) the license agreement states that Landlord may terminate such license agreement at will, and (iii) Tenant gives Landlord a copy of each such license agreement.

24. TENANT'S DEFAULT

The occurrence of any one of the following events shall constitute an event of default on the part of Tenant ("Default"):

(a) The vacation or abandonment of the Premises by Tenant for a period of fifteen (15) consecutive days or any vacation or abandonment of the Premises by Tenant which would cause any insurance policy to be invalidated or otherwise lapse, in each of the foregoing cases irrespective of whether or not Tenant is then in monetary default under this Lease. Tenant agrees to notice and service of notice as provided for in this Lease;

(b) Failure to pay any installment of Rent or any other monies due and payable hereunder, said failure continuing for a period of ten (10) days after the same is due;

(c) A general assignment by Tenant or any guarantor or surety of Tenant's obligations hereunder for the benefit of creditors;

(d) The filing of a voluntary petition in bankruptcy by Tenant or CFS Holding, NV, a Netherlands corporation ("Guarantor"), the filing by Tenant or Guarantor of a voluntary petition for an arrangement, the filing by or against Tenant or Guarantor of a petition, voluntary or involuntary, for reorganization, or the filing of an involuntary petition by the creditors of Tenant or Guarantor, said involuntary petition(s) remaining undischarged for a period of sixty (60) days (such petitions being collectively referred to herein as "Bankruptcy Petitions"); provided, however, it shall not be a default of Tenant hereunder when Guarantor has filed a Bankruptcy Petition or when a Bankruptcy Petition has been filed against Guarantor if, and only if, Tenant obtains a substitute guarantor acceptable to Landlord, and does so within sixty (60) days of the date of the filing of any such Bankruptcy Petition by Guarantor. Landlord agrees not to withhold its consent to any substitute guarantor which has a tangible net worth equivalent to the Guarantor as of the date of the Lease, as shown on the financial statements provided to Landlord by Tenant dated December 31, 2000;

(e) Receivership, attachment, or other judicial seizure of substantially all of Tenant's assets on the Premises, such attachment or other seizure remaining undismissed or undischarged for a period of sixty (60) days after the levy thereof;

(f) Death or disability of Tenant, if Tenant is a natural person, or the failure by Tenant to maintain its legal existence, if Tenant is a corporation, partnership, limited liability company, trust or other legal entity;

(g) Failure of Tenant to execute and deliver to Landlord any estoppel certificate, subordination agreement, or lease amendment within the time periods and in the manner required by Paragraphs 30 or 31 or 42, and/or failure by Tenant to deliver to Landlord any financial statement within the time period and in the manner required by Paragraph 40;

(h) An assignment or sublease, or attempted assignment or sublease, of this Lease or the Premises by Tenant contrary to the provision of Paragraph 23, unless such assignment or sublease is expressly conditioned upon Tenant having received Landlord's prior written consent thereto;

(i) Failure of Tenant to restore the Security Deposit to the amount and within the time period provided in Paragraph 7 above;

(j) Failure in the performance of any of Tenant's covenants, agreements or obligations hereunder (except those failures specified as events of Default in subparagraphs (b), (i) or (m) herein or any other subparagraphs of this Paragraph 24, which shall be governed by the notice and cure periods set forth in such other subparagraphs), which failure continues for thirty (30) days after written notice thereof from Landlord to Tenant, provided that, if Tenant has exercised reasonable diligence to cure such failure and such failure cannot be cured within such thirty (30) day period

despite reasonable diligence, Tenant shall not be in default under this subparagraph so long as Tenant thereafter diligently and continuously prosecutes the cure to completion and actually completes such cure within sixty (60) days after the giving of the aforesaid written notice;

(k) Chronic delinquency by Tenant in the payment of Rent, or any other periodic payments required to be paid by Tenant under this Lease. "Chronic delinquency" shall mean failure by Tenant to pay Rent, or any other payments required to be paid by Tenant under this Lease within ten (10) days after written notice thereof for any three (3) months (consecutive or nonconsecutive) during any period of twelve (12) months;

(l) Any insurance required to be maintained by Tenant pursuant to this Lease shall be canceled or terminated or shall expire or be reduced or materially changed, except as permitted in this Lease; and

(m) Any failure by Tenant to discharge any lien or encumbrance placed on the Project or any part thereof in violation of this Lease within thirty (30) days after the date such lien or encumbrance is filed or recorded against the Project or any part thereof.

25. LANDLORD'S REMEDIES

(a) *Termination.* In the event of any Default by Tenant, then in addition to any other remedies available to Landlord at law or in equity and under this Lease, Landlord shall have the immediate option to terminate this Lease and all rights of Tenant hereunder by giving written notice of such intention to terminate. In the event that Landlord shall elect to so terminate this Lease then Landlord may recover from Tenant

(1) any unpaid Rent and any other sums due and payable which have been earned at the time of such termination; plus

(2) the worth at the time of award of the amount by which the unpaid Rent and any other sums due and payable which would have been earned after termination until the time of award exceeds the amount of such rental loss Tenant proves could have been reasonably avoided; plus

(3) the worth at the time of award of the amount by which the unpaid Rent and any other sums due and payable for the balance of the term of this Lease after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; plus

(4) any other actual amount necessary to reasonably compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course would be likely to result therefrom, including, without limitation, (A) any reasonable costs or expenses incurred by Landlord (1) in

retaking possession of the Premises; (2) in maintaining, repairing, preserving, restoring, replacing, cleaning, altering, remodeling or rehabilitating the Premises or any affected portions of the Building or the Project, including such actions undertaken in connection with the reletting or attempted reletting of the Premises to a new tenant or tenants; (3) for leasing commissions, advertising costs and other expenses of reletting the Premises; or (4) in carrying the Premises, including taxes, insurance premiums, utilities and security precautions; and (B) any unearned brokerage commissions paid in connection with this Lease; plus

(5) such reasonable attorneys' fees incurred by Landlord as a result of a Default, and costs in the event suit is filed by Landlord to enforce such remedy; and plus

(6) at Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law.

As used in subparagraph (2) above, the "worth at the time of award" is computed by allowing interest at an annual rate equal to twelve percent (12%) per annum or the maximum rate permitted by law, whichever is less. As used in subparagraph (3) above, the "worth at the time of award" is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award, plus one percent (1%). Tenant hereby waives for Tenant and all those claiming under Tenant all right now or hereafter existing to redeem by order or judgment of any court or by any legal process or writ, Tenant's right of occupancy of the Premises after any termination of this Lease.

(b) *Re-entry.* In the event of any Default by Tenant, Landlord shall also have the right, with or without terminating this Lease, in compliance with applicable law, to re-enter the Premises, by force if necessary, and remove all persons and property from the Premises; such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of Tenant.

(c) *Reletting.* In the event of the abandonment of the Premises by Tenant or in the event that Landlord shall elect to re-enter as provided in Paragraph 25(b) or shall take possession of the Premises pursuant to legal proceeding or pursuant to any notice provided by law, then if Landlord does not elect to terminate this Lease as provided in Paragraph 25(a), Landlord covenants to mitigate damages by attempting to relet the Premises or any part thereof for such term or terms and at such rental or rentals and upon such other terms and conditions as Landlord in its sole discretion may deem advisable with the right to make alterations and repairs to the Premises in Landlord's sole discretion. In the event that Landlord relets the Premises, then rentals received by Landlord from such reletting shall be applied in the following order: (1) to reasonable attorneys' fees incurred by Landlord as a result of a Default and costs in the event suit is filed by Landlord to enforce such remedies; (2) to the payment of any indebtedness other

than Rent due hereunder from Tenant to Landlord; (3) to the payment of any costs of such reletting; (4) to the payment of the costs of any alterations and repairs to the Premises; (5) to the payment of Rent due and unpaid hereunder; and (6) the residue, if any, shall be held by Landlord and applied in payment of future Rent and other sums payable by Tenant hereunder as the same may become due and payable hereunder. Should that portion of such rentals received from such reletting during any month, which is applied to the payment of Rent hereunder, be less than the Rent payable during the month by Tenant hereunder, then Tenant shall pay such deficiency to Landlord. Such deficiency shall be calculated and paid monthly. Tenant shall also pay to Landlord, as soon as ascertained, any costs and expenses incurred by Landlord in such reletting or in making such alterations and repairs not covered by the rentals received from such reletting.

(d) *Termination.* No re-entry or taking of possession of the Premises by Landlord pursuant to this Paragraph 25 shall be construed as an election to terminate this Lease unless a written notice of such intention is given to Tenant or unless the termination thereof is decreed by a court of competent jurisdiction. Notwithstanding any reletting without termination by Landlord because of any Default by Tenant, Landlord may at any time after such reletting elect to terminate this Lease for any such Default.

(e) *Cumulative Remedies.* The remedies herein provided are not exclusive and Landlord and Tenant, subject to the provisions of Paragraph 39, shall have any and all other remedies provided herein or by law or in equity.

(f) *No Surrender.* No act or conduct of Landlord, whether consisting of the acceptance of the keys to the Premises, or otherwise, shall be deemed to be or constitute an acceptance of the surrender of the Premises by Tenant prior to the expiration of the Term or any Extended Term, and such acceptance by Landlord of surrender by Tenant shall only flow from and must be evidenced by a written acknowledgment of acceptance of surrender signed by Landlord. The surrender of this Lease by Tenant, voluntarily or otherwise, shall not work a merger unless Landlord elects in writing that such merger take place, but shall operate as an assignment to Landlord of any and all existing subleases, or Landlord may, at its option, elect in writing to treat such surrender as a merger terminating Tenant's estate under this Lease, and thereupon Landlord may terminate any or all such subleases by notifying the sublessee of its election so to do within five (5) days after such surrender.

(g) *Tenant's Remedies.* If Landlord fails to promptly perform its covenants, conditions, or obligations under this Lease after being given prior written notice by Tenant specifying the obligation that Landlord has failed to perform, then Tenant, upon thirty (30) days prior written notice, shall have the right to cure Landlord's non-performance and to recover Tenant's reasonable costs and expenses, (including, without limitation, reasonable attorneys' fees and expenses) with interest, in connection therewith. If such costs and expenses are not paid by Landlord to Tenant within fifteen (15) days of

demand therefor, Tenant shall have the right to deduct same from any installments of rent or other charges payable by Tenant. In the event that (i) Tenant in good faith takes the position that Landlord has failed to perform its obligations under this Lease; (ii) Tenant undertakes to cure such failure on the part of Landlord to perform such obligations; and (iii) Tenant withholds rent and/or other charges to the extent permitted under the terms of this Lease after Tenant cures the default of Landlord in order to receive reimbursement for the funds expended in curing the default of Landlord, then, in such event, Landlord shall not have the right to terminate this Lease or to evict Tenant for the non-payment of rent or other charges nor shall Landlord have the right to commence a proceeding for forceable entry and detainer or other similar action to recover possession of the Premises from Tenant until such dispute is resolved. In the event that a court of competent jurisdiction rules that Tenant did not have a right to withhold rent or other payments to Landlord under the terms of this Lease, then, upon the issuance of such a judgment, Tenant shall pay to Landlord the amount so withheld plus interest at the rate of (1) twelve percent (12%) per annum or (2) the highest rate permitted by applicable law.

26. LANDLORD'S RIGHT TO PERFORM TENANT'S OBLIGATIONS

(a) Without limiting the rights and remedies of Landlord contained in Paragraph 25 above, if Tenant shall be in Default in the performance of any of the terms, provisions, covenants or conditions to be performed or complied with by Tenant pursuant to this Lease, then Landlord may at Landlord's option after Tenant receives notice thereof, without any obligation to do so, perform any such term, provision, covenant, or condition, or make any such payment and Landlord by reason of so doing shall not be liable or responsible for any loss or damage thereby sustained by Tenant or anyone holding under or through Tenant or any of Tenant's Agents.

(b) Without limiting the rights of Landlord under Paragraph 26(a) above, Landlord shall have the right at Landlord's option, without any obligation to do so, to perform any of Tenant's covenants or obligations under this Lease without notice to Tenant in the case of an emergency, as determined by Landlord in its reasonable judgment, or if Landlord otherwise determines in its reasonable discretion that such performance is necessary or desirable for the proper management and operation of the Building or the Project or for the preservation of the rights and interests or safety of other tenants of the Building or the Project.

(c) If Landlord performs any of Tenant's obligations hereunder in accordance with this Paragraph 26, the full amount of the cost and expense incurred or the payment so made or the amount of the loss so sustained shall immediately be owing by Tenant to Landlord, and Tenant shall promptly pay to Landlord upon demand, as Additional Rent, the full amount thereof with interest thereon from the date of payment by Landlord at the lower of (1) twelve percent (12%) per annum, or (2) the highest rate permitted by applicable law.

27. ATTORNEY'S FEES

(a) If either party hereto fails to perform any of its obligations under this Lease or if any dispute arises between the parties hereto concerning the meaning or interpretation of any provision of this Lease, then the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party on account of such default and/or in enforcing or establishing its rights hereunder, including, without limitation, court costs and reasonable attorneys' fees and disbursements. Any such attorneys' fees and other expenses incurred by either party in enforcing a judgment in its favor under this Lease shall be recoverable separately from and in addition to any other amount included in such judgment, and such attorneys' fees obligation is intended to be severable from the other provisions of this Lease and to survive and not be merged into any such judgment.

(b) Without limiting the generality of Paragraph 27(a) above, if Landlord utilizes the services of an attorney for the purpose of collecting any Rent due and unpaid by Tenant or in connection with any other breach of this Lease by Tenant, Tenant agrees to pay Landlord's actual attorneys' fees for such services.

28. TAXES

Tenant shall be liable for and shall pay, prior to delinquency, all taxes levied against Tenant's Property. If any Alteration installed by Tenant or any of Tenant's Property pursuant to Paragraph 12 is assessed and taxed with the Project or Building, Tenant shall pay such taxes to Landlord within ten (10) days after delivery to Tenant of a statement therefor.

29. EFFECT OF CONVEYANCE

The term "Landlord" as used in this Lease means, from time to time, the then current owner of the Building or the Project containing the Premises, so that, in the event of any sale of the Building or the Project, Landlord shall be and hereby is entirely freed and relieved of all covenants and obligations of Landlord hereunder, and it shall be deemed and construed, without further agreement between the parties and the purchaser at any such sale, that the purchaser of the Building or the Project has assumed and agreed to carry out any and all covenants and obligations of Landlord hereunder.

30. TENANT'S ESTOPPEL CERTIFICATE

From time to time, and within ten (10) days of written request of Landlord, Tenant shall execute, acknowledge and deliver to Landlord or its designee an Estoppel Certificate in substantially the form attached hereto as *Exhibit C* and with any other statements reasonably requested by Landlord or its designee. Any such Estoppel Certificate

delivered pursuant to this Paragraph 30 may be relied upon by a prospective purchaser of Landlord's interest or a mortgagee of Landlord's interest or assignee of any mortgage upon Landlord's interest in the Premises. If Tenant shall fail to provide such certificate within ten (10) days of receipt by Tenant of a written request by Landlord as herein provided, such failure shall, at Landlord's election, constitute a Default under this Lease, and Tenant shall be deemed to have given such certificate as above provided without modification and shall be deemed to have admitted the accuracy of any information supplied by Landlord to a prospective purchaser or mortgagee. If Landlord should request and receive from Tenant an estoppel certificate more than once during any twelve (12) month period for each such additional estoppel certificate requested and received during such twelve (12) month period, Landlord shall reimburse Tenant up to Three Hundred and No/100 U.S. Dollars (\$300.00) for the legal fees incurred by Tenant in connection with any such estoppel certificate.

31. SUBORDINATION

This Lease, and all rights of Tenant hereunder, are and shall be subject and subordinate to all mortgages which may now or hereafter affect the Building, the Property or any of such leases and each of the terms, covenants and conditions thereto (the "Superior Mortgage(s)"), whether or not such mortgages shall also cover other lands, buildings or leases, to each and every advance made or hereafter to be made under such mortgages, and to all renewals, modifications, replacements and extensions of such leases and such mortgages and spreaders and consolidations of such mortgages. This Paragraph shall be self-operative and no further instrument of subordination shall be required. Tenant shall promptly execute, acknowledge and deliver any reasonable instrument that Landlord or the holder of any such mortgage or any of their respective successors in interest may reasonably request to evidence such subordination; if Tenant fails to execute, acknowledge or deliver any such instrument within fifteen (15) business days after request therefor, Tenant hereby irrevocably constitutes and appoints Landlord as Tenant's attorney-in-fact, coupled with an interest, to execute and deliver any such instrument for and on behalf of Tenant. The holder of a Superior Mortgage is herein called "Superior Mortgagee".

Notwithstanding the foregoing terms of this Paragraph 31, if a Superior Mortgage is hereafter placed against or affecting any or all of the Building or the Premises or any or all of the Building and improvements now or at any time hereafter constituting a part of or adjoining the Building, Landlord shall use reasonable efforts to obtain an agreement from the holder thereof in recordable form and substantially in the form attached hereto as *Exhibit D* or otherwise in form and substance reasonably acceptable to Tenant, whereby the holder of such Superior Mortgage agrees that the Tenant, upon paying the Base Rent and all of the Additional Rent and other charges herein provided for, and observing and complying with the covenants, agreements and conditions of this Lease on its part to be observed and complied with, shall lawfully and quietly hold, occupy and enjoy the

Premises during the Term of this Lease (including any exercised renewal term), without hindrance or interference from anyone claiming by or through said Superior Mortgagee and that said Superior Mortgagee shall respect Tenant's rights under the Lease and, upon succeeding to Landlord's interest in the Building and Lease, shall observe and comply with all of Landlord's duties under the Lease.

If any Superior Mortgagee shall succeed to the rights of Landlord under this Lease, whether through possession or foreclosure action or delivery of a new lease or deed (such party so succeeding to Landlord's rights herein called "Successor Landlord"), then Tenant shall attorn to and recognize such Successor Landlord as Tenant's landlord under this Lease (without the need for further agreement) and shall promptly execute and deliver any reasonable instrument that such Successor Landlord may reasonably request to evidence such attornment. This Lease shall continue in full force and effect as a direct lease between the Successor Landlord and Tenant upon all of the terms, conditions and covenants as are set forth in this Lease, except that the Successor Landlord shall not (a) be liable for any previous act or omission of Landlord under this Lease, except to the extent such act or omission shall constitute a continuing Landlord default hereunder; (b) be subject to any offset, not expressly provided for in this Lease; or (c) be bound by any previous modification of this Lease or by any previous prepayment of more than one month's Base Rent, unless such modification or prepayment shall have been expressly approved in writing by the Successor Landlord (or predecessor in interest).

32. ENVIRONMENTAL COVENANTS

(a) Prior to executing this Lease, Tenant has completed, executed and delivered to Landlord a Hazardous Materials Disclosure Certificate ("Initial Disclosure Certificate"), a fully completed copy of which is attached hereto as *Exhibit E* and incorporated herein by this reference. To the best of Tenant's actual knowledge, Tenant covenants, represents and warrants to Landlord that the information on the Initial Disclosure Certificate is true and correct and accurately describes the Hazardous Materials which will be manufactured, treated, used or stored on or about the Premises by Tenant or Tenant's Agents as of the date hereof. Tenant shall, on each anniversary of the Commencement Date and at such other times as Tenant desires to manufacture, treat, use or store on or about the Premises new or additional Hazardous Materials which were not listed on the Initial Disclosure Certificate, complete, execute and deliver to Landlord an updated Disclosure Certificate (each, an "Updated Disclosure Certificate") describing Tenant's then current and proposed future uses of Hazardous Materials on or about the Premises, which Updated Disclosure Certificates shall be in the same format as that which is set forth in *Exhibit E* or in such updated format as Landlord may require from time to time. Tenant shall deliver an Updated Disclosure Certificate to Landlord not less than thirty (30) days prior to the date Tenant intends to commence the manufacture, treatment, use or storage of new or additional Hazardous Materials on or about the Premises, and Landlord shall have the right to approve or disapprove such new or additional Hazardous Materials

in its sole and absolute discretion. Tenant shall make no use of Hazardous Materials on or about the Premises except as described in the Initial Disclosure Certificate or as otherwise approved by Landlord in writing in accordance with this Paragraph 32(a).

(b) As used in this Lease, the term "Hazardous Materials" shall mean and include any substance that is or contains (1) any "hazardous substance" as now or hereafter defined in § 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA") (42 U.S.C. § 9601 *et seq.*) or any regulations promulgated under CERCLA; (2) any "hazardous waste" as now or hereafter defined in the Resource Conservation and Recovery Act, as amended ("RCRA") (42 U.S.C. § 6901 *et seq.*) or any regulations promulgated under RCRA; (3) any substance now or hereafter regulated by the Toxic Substances Control Act, as amended ("TSCA") (15 U.S.C. § 2601 *et seq.*) or any regulations promulgated under TSCA; (4) petroleum, petroleum by-products, gasoline, diesel fuel, or other petroleum hydrocarbons; (5) asbestos and asbestos-containing material, in any form, whether friable or non-friable; (6) polychlorinated biphenyls; (7) lead and lead-containing materials; or (8) any additional substance, material or waste (A) the presence of which on or about the Premises (i) requires reporting, investigation or remediation under any Environmental Laws (as hereinafter defined), (ii) causes or threatens to cause a nuisance on the Premises or any adjacent area or property or poses or threatens to pose a hazard to the health or safety of persons on the Premises or any adjacent area or property, or (iii) which, if it emanated or migrated from the Premises, could constitute a trespass, or (B) which is now or is hereafter classified or considered to be hazardous or toxic under any Environmental Laws.

(c) As used in this Lease, the term "Environmental Laws" shall mean and include (1) CERCLA, RCRA and TSCA; and (2) any other federal, state or local laws, ordinances, statutes, codes, rules, regulations, orders or decrees now or hereinafter in effect relating to (A) pollution, (B) the protection or regulation of human health, natural resources or the environment, (C) the treatment, storage or disposal of Hazardous Materials, or (D) the emission, discharge, release or threatened release of Hazardous Materials into the environment.

(d) Tenant agrees that during its use and occupancy of the Premises it will (1) not (A) permit Hazardous Materials to be present on or about the Premises except in a manner and quantity necessary for the ordinary performance of Tenant's business or (B) release, discharge or dispose of any Hazardous Materials on, in, at, under, or emanating from, the Premises, the Building or the Project; (2) comply with all Environmental Laws relating to the Premises and the use of Hazardous Materials on or about the Premises and not engage in or permit others to engage in any activity at the Premises in violation of any Environmental Laws; and (3) immediately notify Landlord of (A) any inquiry, test, investigation or enforcement proceeding by any governmental agency or authority against Tenant, Landlord or the Premises, Building or Project relating

to any Hazardous Materials or under any Environmental Laws or (B) the occurrence of any event or existence of any condition that would cause a breach of any of the covenants set forth in this Paragraph 32.

(e) If Tenant's use of Hazardous Materials on or about the Premises results in a release, discharge or disposal of Hazardous Materials on, in, at, under, or emanating from, the Premises, the Building or the Project, Tenant agrees to investigate, clean up, remove or remediate such Hazardous Materials in full compliance with (1) the requirements of (A) all Environmental Laws and (B) any governmental agency or authority responsible for the enforcement of any Environmental Laws; and (2) any additional requirements of Landlord that are necessary, in Landlord's sole discretion, to protect the value of the Premises, the Building or the Project.

(f) Upon reasonable notice to Tenant, Landlord may inspect the Premises and surrounding areas for the purpose of determining whether there exists on or about the Premises any Hazardous Material or other condition or activity that is in violation of the requirements of this Lease or of any Environmental Laws. Such inspections may include, but are not limited to, entering the Premises or adjacent property with drill rigs or other machinery for the purpose of obtaining laboratory samples. Landlord shall not be limited in the number of such inspections during the Term or any Extended Term of this Lease. In the event (1) such inspections reveal the presence of any such Hazardous Material or other condition or activity in violation of the requirements of this Lease or of any Environmental Laws, or (2) Tenant or its Agents contribute or knowingly consent to the presence of any Hazardous Materials in, on, under, through or about the Premises, the Building or the Project or exacerbate the condition of or the conditions caused by any Hazardous Materials in, on, under, through or about the Premises, the Building or the Project, Tenant shall reimburse Landlord for the cost of such inspections, not to exceed two (2) per year, within ten (10) days of receipt of a written statement therefor. Tenant will supply to Landlord such historical and operational information regarding the Premises and surrounding areas as may be reasonably requested to facilitate any such inspection and will make available for meetings appropriate personnel having knowledge of such matters. Tenant agrees to give Landlord at least thirty (30) days prior notice of its intention to vacate the Premises so that Landlord will have an opportunity to perform such an inspection prior to such vacation. The right granted to Landlord herein to perform inspections shall not create a duty on Landlord's part to inspect the Premises, or liability on the part of Landlord for Tenant's use, storage, treatment or disposal of Hazardous Materials, it being understood that Tenant shall be solely responsible for all liability in connection therewith.

(g) Landlord shall have the right, but not the obligation, prior or subsequent to a Default, without in any way limiting Landlord's other rights and remedies under this Lease, to enter upon the Premises, or to take such other actions as it deems necessary or advisable, to investigate, clean up, remove or remediate any Hazardous Materials or

contamination by Hazardous Materials present on, in, at, under, or emanating from, the Premises, the Building or the Project in violation of Tenant's obligations under this Lease or under any Environmental Laws. Notwithstanding any other provision of this Lease, Landlord shall also have the right, at its election, in its own name or as Tenant's agent, to negotiate, defend, approve and appeal, at Tenant's expense, any action taken or order issued by any governmental agency or authority with regard to any such Hazardous Materials or contamination by Hazardous Materials. All costs and expenses paid or incurred by Landlord in the exercise of the rights set forth in this Paragraph 32 shall be payable by Tenant upon demand.

(h) Tenant shall surrender the Premises to Landlord upon the expiration or earlier termination of this Lease free of debris, waste or Hazardous Materials placed on, about or near the Premises by Tenant or Tenant's Agents, and in a condition which complies with all Environmental Laws and any additional requirements of Landlord that are reasonably necessary to protect the value of the Premises, the Building or the Project, including, without limitation, the obtaining of any closure permits or other governmental permits or approvals related to Tenant's use of Hazardous Materials in or about the Premises. Tenant's obligations and liabilities pursuant to the provisions of this Paragraph 32 shall be in addition to any other surrender requirement in this Lease and shall survive the expiration or earlier termination of this Lease. If it is reasonably determined by Landlord that the condition of all or any portion of the Premises, the Building, and/or the Project is not in compliance with the provisions of this Lease with respect to Hazardous Materials, including, without limitation, all Environmental Laws, at the expiration or earlier termination of this Lease, then at Landlord's sole option, Landlord may require Tenant to hold over possession of the Premises until Tenant can surrender the Premises to Landlord in the condition in which the Premises existed as of the Commencement Date and prior to the appearance of such Hazardous Materials except for normal wear and tear, including, without limitation, the conduct or performance of any closures as required by any Environmental Laws. The burden of proof hereunder shall be upon Tenant. For purposes hereof, the term "normal wear and tear" shall not include any deterioration in the condition or diminution of the value of any portion of the Premises, the Building, and/or the Project in any manner whatsoever related to directly, or indirectly, Hazardous Materials. Any such holdover by Tenant will be with Landlord's consent, will not be terminable by Tenant in any event or circumstance and will otherwise be subject to the provisions of Paragraph 35 of this Lease.

(i) Tenant agrees to indemnify and hold harmless Landlord from and against any and all claims, damages, fines, judgments, penalties, costs, losses (including, without limitation, loss in value of the Premises, the Building or the Project, damages due to loss or restriction of rentable or useable space, or any damages due to any adverse impact on marketing of the space and any and all sums paid for settlement of claims, liabilities and expenses (including, without limitation, attorney's fees, consultants' fees and expert's fees)) sustained by Landlord during or after the term of this Lease and attributable to

(1) any Hazardous Materials placed on or about the Premises, the Building or the Project by Tenant or Tenant's Agents, or (2) Tenant's breach of any provision of this Paragraph 32.

(j) Landlord agrees to indemnify and hold harmless Tenant from and against any and all actual damages, (including, without limitation, reasonable attorneys' fees and expenses) sustained by Tenant during or after the term of this Lease and attributable to any Hazardous Materials placed on or about the Premises, the Building or the Project by Landlord or Landlord's Agents; provided, however, Landlord shall not be required to expend in excess of Five Million and No/100 U.S. Dollars (\$5,000,000.00) in connection with the indemnities contained herein. If it is determined by a governmental authority with jurisdiction over the Property, that Landlord or Landlord's Agents have placed Hazardous Materials on or about the Premises, the Building or the Project and such condition renders the Premises unusable by Tenant for the conduct of Tenant's business, Tenant may terminate this Lease upon sixty (60) days prior written notice to Landlord.

(k) Landlord and Tenant agree that Tenant, at Tenant's sole cost and expense, shall have forty-five (45) days from the Lease Date, as defined in the Basic Lease Information, to conduct and complete both a Phase I environmental report and, if necessary, in Tenant's discretion, a Phase II environmental inspection and report of the Project (collectively the "Environmental Tests"). Tenant will provide Landlord a copy of the results of any Environmental Tests or reports upon Tenant's receipt of same. If Tenant's Environmental Tests reveal the presence, as of the Lease Date, of Hazardous Materials on the Project in violation of applicable Environmental Laws, Landlord, in its sole discretion, shall have the option to remediate any such condition on the Project caused by the presence of such Hazardous Materials; provided, however, (i) if the Environmental Tests reveal the presence, as of the Lease Date, of Hazardous Materials which an independent third-party environmental engineer, reasonably satisfactory to both Landlord and Tenant, estimates would cost in excess of One Hundred Thousand and No/100 U.S. Dollars (\$100,000.00) to remediate, or (ii) if Landlord elects not to remediate the condition caused by the presence, as of the Lease Date, of such Hazardous Materials (and Landlord agrees to provide to Tenant written notice of such election not to remediate within seven (7) days following Landlord's receipt of such Environmental Tests), then Tenant, in Tenant's sole discretion, may terminate this Lease and Landlord shall refund the Security Deposit and any Base Rent and Additional Rent (excluding Utilities), paid to Landlord hereunder. Notwithstanding the foregoing, Tenant's right to terminate this Lease pursuant to this subparagraph (k) is further conditioned on Tenant providing written notice of such termination to Landlord within fifteen (15) days following Tenant's receipt of the Environmental Tests. Furthermore, Tenant agrees to (a) restore the Project to its previous condition promptly following the completion of each such Environmental Test(s), and (b) within thirty (30) days following the issuance of such a termination notice by Tenant to Landlord, and at Tenant's sole cost and expense, repair any damage to the Project caused as a result of any Tenant Improvements, Alterations or nonstructural

alterations made or caused to be made by Tenant at the Project and restore the Project to substantially the same condition as existed on the Lease Date.

(l) To the best of Landlord's knowledge as of the date hereof, Landlord has not received any notice of violation of any Environmental Laws from any governmental authority with jurisdiction over the Premises.

(m) The provisions of this Paragraph 32 shall survive the expiration or earlier termination of this Lease.

33. NOTICES

All notices and demands which are required or may be permitted to be given to either party by the other hereunder shall be in writing and shall be sent by United States mail, postage prepaid, certified, or by personal delivery or nationally recognized overnight courier, addressed to the addressee at Tenant's Address or Landlord's Address as specified in the Basic Lease Information, or to such other place as either party may from time to time designate in a notice to the other party given as provided herein. Copies of all notices and demands given to Landlord shall additionally be sent to Landlord's property manager at the address specified in the Basic Lease Information or at such other address as Landlord may specify in writing from time to time. Notice shall be deemed given upon actual receipt (or attempted delivery if delivery is refused), if personally delivered, or one (1) business day following deposit with a reputable overnight courier that provides a receipt, or on the third (3rd) day following deposit in the United States mail in the manner described above.

34. WAIVER

The waiver of any breach of any term, covenant or condition of this Lease shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of Rent by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant, other than the failure of Tenant to pay the particular rental so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Rent. No delay or omission in the exercise of any right or remedy of Landlord in regard to any Default by Tenant shall impair such a right or remedy or be construed as a waiver. Any waiver by Landlord of any Default must be in writing and shall not be a waiver of any other Default concerning the same or any other provisions of this Lease.

35. HOLDING OVER

Any holding over after the expiration of the Term, or any Extended Term, as the case may be, without the express written consent of Landlord, shall constitute a Default and, without limiting Landlord's remedies provided in this Lease, such holding over shall be construed to be a tenancy at sufferance, at a rental rate equal to the greater of one hundred twenty-five (125%) of the fair market rental value for the Premises as reasonably determined by Landlord or one hundred twenty-five percent (125%) of the Base Rent last due in this Lease, plus Additional Rent, and shall otherwise be on the terms and conditions herein specified, so far as applicable; provided, however, in no event shall any renewal or expansion option or other similar right or option contained in this Lease be deemed applicable to any such tenancy at sufferance. If the Premises are not surrendered at the end of the Term, or any Extended Term, as the case may be, or sooner termination of this Lease, and in accordance with the provisions of Paragraphs 11 and 32(h), Tenant shall indemnify, defend and hold Landlord harmless from and against any and all loss or liability resulting from delay by Tenant in so surrendering the Premises including, without limitation, any loss or liability resulting from any claim against Landlord made by any succeeding tenant or prospective tenant founded on or resulting from such delay and losses to Landlord due to lost opportunities to lease any portion of the Premises to any such succeeding tenant or prospective tenant, together with, in each case, actual attorneys' fees and costs.

36. SUCCESSORS AND ASSIGNS

The terms, covenants and conditions of this Lease shall, subject to the provisions as to assignment, apply to and bind the heirs, successors, executors, administrators and assigns of all of the parties hereto. If Tenant shall consist of more than one entity or person, the obligations of Tenant under this Lease shall be joint and several.

37. TIME

Time is of the essence of this Lease and each and every term, condition and provision herein.

38. BROKERS

Landlord and Tenant each represents and warrants to the other that neither it nor its officers or agents nor anyone acting on its behalf has dealt with any real estate broker in the negotiating or making of this Lease, and each party agrees to indemnify and hold harmless the other from any claim or claims, and costs and expenses, including reasonable attorneys' fees, incurred by the indemnified party in conjunction with any such claim or claims of any other broker or brokers to a commission in connection with this Lease as a result of the actions of the indemnifying party.

39. LIMITATION OF LIABILITY

Tenant agrees that, in the event of any default or breach by Landlord under this Lease or arising in connection herewith or with Landlord's operation, management, leasing, repair, renovation, alteration or any other matter relating to the Project or the Premises, Tenant's remedies shall be limited solely and exclusively to an amount which is equal to the lesser of (a) the interest in the Building of the then current Landlord or (b) the equity interest Landlord would have in the Building if the Building were encumbered by third party debt in an amount equal to eighty percent (80%) of the value of the Building (as such value is determined by Landlord) provided that in no event shall such liability extend to any sales or insurance proceeds received by Landlord or the "Landlord Parties" in connection with the Project, Building or Premises. For purposes of this Lease, "Landlord Parties" shall mean, collectively Landlord, its partners, shareholders, officers, directors, employees, investment advisors, or any successor in interest of any of them. Neither Landlord, nor any of the Landlord Parties shall have any personal liability therefor, and Tenant hereby expressly waives and releases such personal liability on behalf of itself and all persons claiming by, through or under Tenant. The limitations of liability contained in this Paragraph 39 shall inure to the benefit of Landlord's and the Landlord Parties' present and future partners, beneficiaries, officers, directors, trustees, shareholders, agents and employees, and their respective partners, heirs, successors and assigns. Under no circumstances shall any present or future partner of Landlord (if Landlord is a partnership), future member in Landlord (if Landlord is a limited liability company) or trustee or beneficiary (if Landlord or any partner or member of Landlord is a trust), have any liability for the performance of Landlord's obligations under this Lease. Notwithstanding any contrary provision herein, neither Landlord nor the Landlord Parties shall be liable under any circumstances for injury or damage to, or interference with Tenant's business, including but not limited to, loss or profits, loss of rents or other revenues, loss of business opportunity, loss of goodwill or loss of use, in each case, however occurring. The provisions of this section shall apply only to the Landlord and the parties herein described, and shall not be for the benefit of any insurer nor any other third party.

40. FINANCIAL STATEMENTS

Within ten (10) days after Landlord's request, Guarantor shall deliver to Landlord the then current audited financial statements of Guarantor (including interim periods following the end of the last fiscal year for which annual statements are available), prepared or compiled by a certified public accountant, including a balance sheet and profit and loss statement for the most recent prior year, all prepared in accordance with accounting principles consistently applied. Landlord covenants to keep all financial statements strictly confidential. Disclosure shall be required only if by operation of law. Landlord agrees that the use or disclosure of any financial statements provided by Tenant or Guarantor to anyone or any third party could cause damages to the competitive

position of Tenant or Guarantor and other proper business interests of Tenant or Guarantor.

41. RULES AND REGULATIONS

Tenant agrees to comply with the rules and regulations attached hereto as *Exhibit B*, along with any modifications, amendments and supplements thereto, and such reasonable rules and regulations as Landlord may adopt in the future from time to time for the orderly and proper operation of the Building and the Project (collectively, the "Rules and Regulations"). The Rules and Regulations may include, but shall not be limited to the following: (a) regulation of the removal, storage and disposal of Tenant's refuse and other rubbish at the sole cost and expense of Tenant. The then current Rules and Regulations shall be binding upon Tenant upon delivery of a copy of them to Tenant. Landlord shall not be responsible to Tenant for the failure of any other person to observe and abide by any of said Rules and Regulations.

42. MORTGAGEE PROTECTION

(a) *Modifications for Lender.* If, in connection with obtaining financing for the Project or any portion thereof, Landlord's lender shall request reasonable modifications to this Lease as a condition to such financing, Tenant shall not unreasonably withhold, delay or defer its consent to such modifications, provided such modifications do not materially adversely affect Tenant's rights or increase Tenant's obligations under this Lease.

(b) *Rights to Cure.* Tenant agrees to give to any trust deed or mortgage holder ("Holder"), by a method provided for in Paragraph 33 above, at the same time as it is given to Landlord, a copy of any notice of default given to Landlord, provided that prior to such notice Tenant has been notified, in writing, (by way of notice of assignment of rents and leases, or otherwise) of the address of such Holder. Tenant further agrees that if Landlord shall have failed to cure such default within the time provided for in this Lease, then the Holder shall have an additional reasonable period within which to cure such default or if such default cannot be cured without Holder pursuing its remedies against Landlord, then such additional time as may be necessary to commence and complete a foreclosure proceeding, provided Holder commences and thereafter diligently pursues the remedies necessary to cure such default (including but not limited to commencement of foreclosure proceedings, if necessary to effect such cure), in which event this Lease shall not be terminated.

43. INTENTIONALLY OMITTED

44. INTENTIONALLY OMITTED

45. ENTIRE AGREEMENT

This Lease, including the Exhibits and any Addenda attached hereto, which are hereby incorporated herein by this reference, contains the entire agreement of the parties hereto, and no representations, inducements, promises or agreements, oral or otherwise, between the parties, not embodied herein or therein, shall be of any force and effect. If there is more than one Tenant, the obligations hereunder imposed shall be joint and several.

46. INTEREST

Any installment of Rent and any other sum due from Tenant under this Lease which is not received by Landlord within ten (10) days from when the same is due shall bear interest from the date such payment was originally due under this Lease until paid at the greater of (a) an annual rate equal to the maximum rate of interest permitted by law or (b) twelve percent (12%) per annum. Payment of such interest shall not excuse or cure any Default by Tenant. In addition, Tenant shall pay all costs and reasonable attorneys' fees incurred by Landlord in collection of such amounts.

47. CONSTRUCTION

This Lease shall be construed and interpreted in accordance with the laws of the state in which the Premises is located. The parties acknowledge and agree that no rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall be employed in the interpretation of this Lease, including the Exhibits and any Addenda attached hereto. All captions in this Lease are for reference only and shall not be used in the interpretation of this Lease. Whenever required by the context of this Lease, the singular shall include the plural, the masculine shall include the feminine, and vice versa. If any provision of this Lease shall be determined to be illegal or unenforceable, such determination shall not affect any other provision of this Lease and all such other provisions shall remain in full force and effect.

48. REPRESENTATIONS AND WARRANTIES OF TENANT AND LANDLORD

(a) Tenant hereby makes the following representations and warranties, each of which is material and being relied upon by Landlord, is true in all respects as of the date of this Lease, and shall survive the expiration or termination of the Lease.

- (i) If Tenant is an entity, Tenant is duly organized, validly existing and in good standing under the laws of the state of its organization and is qualified to do business in the state in which the Premises is located and the persons executing this Lease on behalf of Tenant have the full right and authority to execute this Lease on behalf of Tenant and to bind Tenant

without the consent or approval of any other person or entity. Tenant has full power, capacity, authority and legal right to execute and deliver this Lease and to perform all of its obligations hereunder. This Lease is a legal, valid and binding obligation of Tenant, enforceable in accordance with its terms.

- (ii) Tenant has not (1) made a general assignment for the benefit of creditors, (2) filed any voluntary petition in bankruptcy or suffered the filing of an involuntary petition by any creditors, (3) suffered the appointment of a receiver to take possession of all or substantially all of its assets, (4) suffered the attachment or other judicial seizure of all or substantially all of its assets, (5) admitted in writing its inability to pay its debts as they come due, or (6) made an offer of settlement, extension or composition to its creditors generally.

(b) Landlord hereby makes the following representations and warranties, each of which is material and being relied upon by Tenant and is true in all respects as of the date of this Lease.

- (i) Landlord is the owner of the Building, including the Premises, and shall promptly and diligently attempt to cure, when discovered, any title defect to the Premises or to any improvements, and any title restrictions, covenants, easements, tenancies or occupancies (excluding those caused or suffered by Tenant) that would impair Tenant's use or other rights of and to the Premises granted in this Lease;
- (ii) The execution and delivery of this Lease shall not be precluded by or cause a breach of any other agreement, mortgage, contract, or other instrument or document to which Landlord is a party; and
- (iii) If the Premises are subject to any mortgage or mortgages, Landlord will furnish Tenant a copy of such mortgage documents and will attempt to obtain Non-Disturbance Agreements for Tenant executed by each of Landlord's mortgagees in a form acceptable to Tenant.

49. NAME OF BUILDING

In the event Landlord chooses to change the name or address of the Building and/or the Project, Tenant agrees that such change shall not affect in any way its obligations under this Lease, and that, except for the name or address change, all terms and conditions of this Lease shall remain in full force and effect. Tenant agrees further that

such name or address change shall not require a formal amendment to this Lease, but shall be effective upon Tenant's receipt of written notification from Landlord of said change.

50. SECURITY

(a) Tenant acknowledges and agrees that, while Landlord, in its sole and absolute discretion, may engage security personnel to patrol the Building or the Project, Landlord is not providing any security services with respect to the Premises, the Building or the Project and that Landlord shall not be liable to Tenant for, and Tenant waives any claim against Landlord with respect to, any loss by theft or any other damage suffered or incurred by Tenant in connection with any unauthorized entry into the Premises or any other breach of security with respect to the Premises, the Building or the Project.

(b) Tenant hereby agrees to the exercise by Landlord and Landlord's Agents, within their sole discretion, of such security measures as, but not limited to, the evacuation of the Premises, the Building or the Project for cause, suspected cause or for drill purposes, the denial of any access to the Premises, the Building or the Project and other similarly related actions that it deems necessary to prevent any threat of property damage or bodily injury. The exercise of such security measures by Landlord and Landlord's Agents, and the resulting interruption of service and cessation of Tenant's business, if any, shall not be deemed an eviction or disturbance of Tenant's use and possession of the Premises, or any part thereof, or render Landlord or Landlord's Agents liable to Tenant for any resulting damages or relieve Tenant from Tenant's obligations under this Lease.

51. JURY TRIAL WAIVER

Tenant hereby waives any right to trial by jury with respect to any action or proceeding (i) brought by Landlord, Tenant or any other party, relating to (A) this Lease and/or any understandings or prior dealings between the parties hereto, or (B) the Premises, the Building or the Project or any part thereof, or (ii) to which Landlord is a party.

52. RECORDATION

A memorandum of this Lease, in a form reasonably acceptable to Landlord, may be recorded by Tenant or by any one acting through, under or on behalf of Tenant. Any such memorandum shall not contain any of the business terms contained herein (i.e. rental amounts) other than the termination date of this Lease and/or the date of termination of this Lease if the renewal option provided for in Paragraph 56 is exercised.

53. QUIET ENJOYMENT

If Tenant pays the Rent when due and timely performs all other obligations of Tenant under this Lease, then Tenant may peaceably and quietly enjoy the Premises during the Term or Extended Term, as the case may be, without any disturbance from Landlord or from any other person claiming by, through or under Landlord, but not otherwise, subject to the terms of this Lease and of the deeds of trust, mortgages, ordinances, utility easements, and agreements affecting the Project.

54. FORCE MAJEURE

Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain services, labor, or materials or reasonable substitutes therefor, governmental actions, civil commotions, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform, except with respect to the obligations imposed with regard to Rent and other charges to be paid by Tenant pursuant to this Lease (collectively, the "Force Majeure"), notwithstanding anything to the contrary contained in this Lease, shall excuse the performance of such party for a period equal to any such prevention, delay or stoppage and therefore, if this Lease specifies a time period for performance of an obligation of either party, that time period shall be extended by the period of any delay in such party's performance caused by a Force Majeure.

55. ACCEPTANCE

This Lease shall only become effective and binding upon full execution hereof by Landlord and delivery of a signed copy to Tenant.

56. RENEWAL OPTION

Provided that Tenant is not in default hereunder, the Tenant is given the option to extend the Term on the same terms and conditions contained in this Lease, for a five (5) year period following the expiration of the Term (the "Extended Term"). Tenant shall give notice of the exercise of any option to extend on or before six (6) months prior to the impending expiration of the Term. Tenant's failure to timely provide notice of exercise of such renewal option shall render such option void, time being of the essence hereof. Base Rent for the Extended Term shall equal ninety-five percent (95%) of the Fair Market Value (as hereinafter defined) of the Premises but in no event less than the Base Rent paid for the Lease Year preceding the first year of the Extended Term. For the purposes of this Paragraph 56, the term "Fair Market Value" shall mean rentals charged under leases of comparable duration for comparable tenants in comparable buildings in the Dallas, Texas area.

57. OPTION TO PURCHASE

Tenant shall have the option to purchase the Project, and such other land as may be included in the final subdivision and plat of Parcel 2, as generally described on *Exhibit A*, at any time during the first twenty-four (24) months of the Term by providing written notice to Landlord (the "Option"). If Tenant exercises the Option, the purchase price shall be Eight Million Five Hundred Thousand and No/100 U.S. Dollars (\$8,500,000.00) in immediately available funds payable at the closing of such purchase and sale. If Tenant duly exercises the Option, the contract of sale ("Contract of Sale") which will be promptly executed by Landlord and Tenant shall provide that the closing of the purchase by Tenant shall be within thirty (30) days after Tenant has exercised the Option by providing written notice to Landlord; moreover, the Contract of Sale shall not contain any contingency period or inspection period in favor of Tenant. In addition, Tenant shall also promptly deliver to a reputable title insurance company, designated by Tenant, earnest money in the amount of Five Hundred Thousand and No/100 U.S. Dollars (\$500,000.00) (the "Deposit"). If Tenant fails to make the Deposit, any rights provided to Tenant under this paragraph shall be void and of no force and effect. If Tenant fails to exercise the Option in the timeframe herein described, the Option shall be void and of no force and effect. Time being of the essence in the exercise of the Option. Landlord and Tenant acknowledge that Landlord may subdivide and replat the land upon which the Project is located and Tenant agrees to cooperate with Landlord in the subdividing and replatting process, provided, however, Tenant shall not have to incur any costs or expenses as a result of any subdivision or replatting.

58. INTENTIONALLY OMITTED

59. INTENTIONALLY OMITTED

60. SERVICE OF PROCESS

Tenant hereby agrees and consents that, in addition to any methods of service of process provided for under applicable law, all service of process in any such suit, action or proceeding in any Texas state court, or any United States federal court, sitting in the county in which the Premises is located may be made by certified or registered mail, return receipt requested, directed to Tenant at its address stated in this Lease, or at a subsequent address of which Landlord received actual notice from Tenant in accordance with this Lease, and service so made shall be complete five (5) days after the same shall have been so mailed.

61. VENUE

TO THE EXTENT PERMITTED BY APPLICABLE LAW, TENANT HEREBY SUBMITS TO THE NONEXCLUSIVE JURISDICTION OF THE UNITED STATES

DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS AND ANY TEXAS STATE COURT SITTING IN DALLAS, TEXAS FOR PURPOSES OF ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS LEASE OR THE TRANSACTIONS CONTEMPLATED HEREBY. TENANT IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF THE VENUE OF ANY SUCH PROCEEDING BROUGHT IN SUCH A COURT AND ANY CLAIM THAT ANY SUCH PROCEEDING BROUGHT IN SUCH A COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

This Lease may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute one (1) and the same instrument.

Landlord and Tenant have executed and delivered this Lease as of the Lease Date specified in the Basic Lease Information.

LANDLORD:

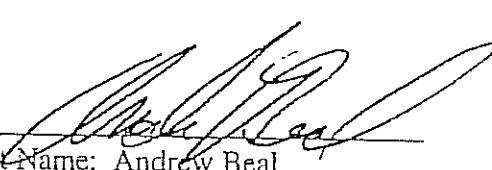
RAINFOREST ASSOCIATES, LTD.,
a Texas limited partnership

By: Beneficial Property Corp.,
a Texas corporation, its
general partner

TENANT:

CONVENIENCE FOOD SYSTEMS, INC.,
a Delaware corporation

By: _____
Print Name: _____
Its: _____

By: 
Print Name: Andrew Beal
Its: President

DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS AND ANY TEXAS STATE COURT SITTING IN DALLAS, TEXAS FOR PURPOSES OF ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS LEASE OR THE TRANSACTIONS CONTEMPLATED HEREBY. TENANT IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF THE VENUE OF ANY SUCH PROCEEDING BROUGHT IN SUCH A COURT AND ANY CLAIM THAT ANY SUCH PROCEEDING BROUGHT IN SUCH A COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

This Lease may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute one (1) and the same instrument.

Landlord and Tenant have executed and delivered this Lease as of the Lease Date specified in the Basic Lease Information.

LANDLORD:

RAINFOREST ASSOCIATES, LTD.,
a Texas limited partnership

By: Beneficial Property Corp.,
a Texas corporation, its
general partner

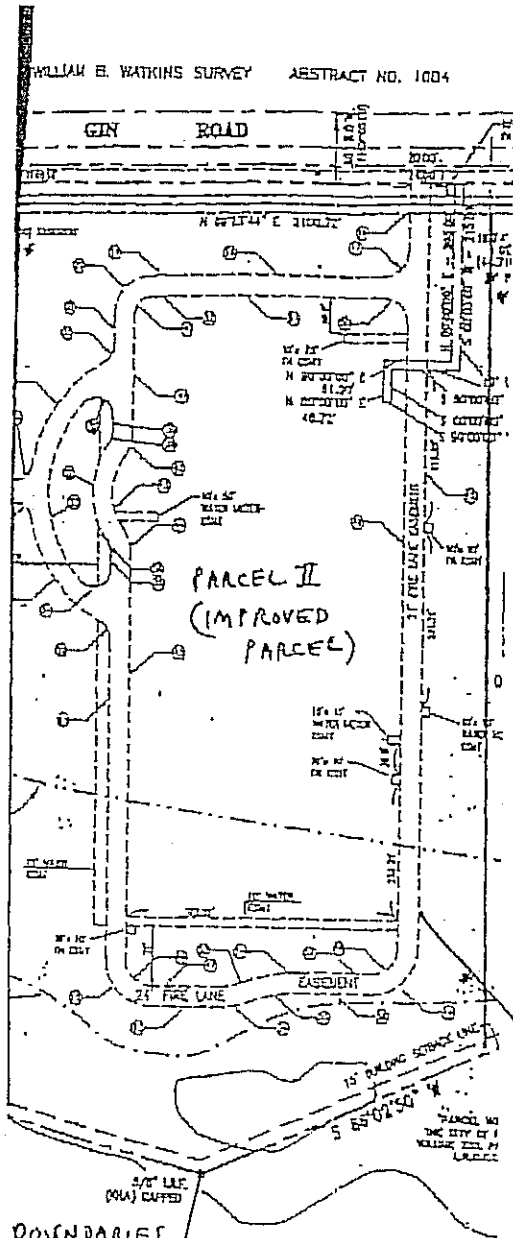
TENANT:

CONVENIENCE FOOD SYSTEMS, INC.,
a Delaware corporation

By: Ronald E. Merrill
Print Name: Ronald E. Merrill
Its: President

By: _____
Print Name: Andrew Beal
Its: President

DIAGRAM OF THE PREMISES



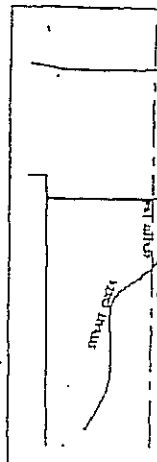
BOUNDARIES
APPROXIMATE.

Leased
premises
end at
the eastern
edge of the
24' FIRE LANE
EASEMENT.

projected this place and the full
survey survey of the land and
survey parcel shown any
more boundaries of the City of

is in and for said County and
State, known to me to be the
instrument and acknowledged
before me.

day of



FLOOR PLAN OF THE PREMISES

The floor plan shows a large rectangular building with a central corridor and several rooms. The rooms are labeled with numbers and names:

- Room 1: Large room on the left side, labeled "Room 1" and "Room 2".
- Room 2: Large room on the right side, labeled "Room 3" and "Room 4".
- Room 3: Small room on the left side, labeled "Room 5" and "Room 6".
- Room 4: Small room on the right side, labeled "Room 7" and "Room 8".
- Room 5: Small room on the left side, labeled "Room 9" and "Room 10".
- Room 6: Small room on the right side, labeled "Room 11" and "Room 12".
- Room 7: Small room on the left side, labeled "Room 13" and "Room 14".
- Room 8: Small room on the right side, labeled "Room 15" and "Room 16".
- Room 9: Small room on the left side, labeled "Room 17" and "Room 18".
- Room 10: Small room on the right side, labeled "Room 19" and "Room 20".
- Room 11: Small room on the left side, labeled "Room 21" and "Room 22".
- Room 12: Small room on the right side, labeled "Room 23" and "Room 24".
- Room 13: Small room on the left side, labeled "Room 25" and "Room 26".
- Room 14: Small room on the right side, labeled "Room 27" and "Room 28".
- Room 15: Small room on the left side, labeled "Room 29" and "Room 30".
- Room 16: Small room on the right side, labeled "Room 31" and "Room 32".
- Room 17: Small room on the left side, labeled "Room 33" and "Room 34".
- Room 18: Small room on the right side, labeled "Room 35" and "Room 36".
- Room 19: Small room on the left side, labeled "Room 37" and "Room 38".
- Room 20: Small room on the right side, labeled "Room 39" and "Room 40".
- Room 21: Small room on the left side, labeled "Room 41" and "Room 42".
- Room 22: Small room on the right side, labeled "Room 43" and "Room 44".
- Room 23: Small room on the left side, labeled "Room 45" and "Room 46".
- Room 24: Small room on the right side, labeled "Room 47" and "Room 48".
- Room 25: Small room on the left side, labeled "Room 49" and "Room 50".
- Room 26: Small room on the right side, labeled "Room 51" and "Room 52".
- Room 27: Small room on the left side, labeled "Room 53" and "Room 54".
- Room 28: Small room on the right side, labeled "Room 55" and "Room 56".
- Room 29: Small room on the left side, labeled "Room 57" and "Room 58".
- Room 30: Small room on the right side, labeled "Room 59" and "Room 60".
- Room 31: Small room on the left side, labeled "Room 61" and "Room 62".
- Room 32: Small room on the right side, labeled "Room 63" and "Room 64".
- Room 33: Small room on the left side, labeled "Room 65" and "Room 66".
- Room 34: Small room on the right side, labeled "Room 67" and "Room 68".
- Room 35: Small room on the left side, labeled "Room 69" and "Room 70".
- Room 36: Small room on the right side, labeled "Room 71" and "Room 72".
- Room 37: Small room on the left side, labeled "Room 73" and "Room 74".
- Room 38: Small room on the right side, labeled "Room 75" and "Room 76".
- Room 39: Small room on the left side, labeled "Room 77" and "Room 78".
- Room 40: Small room on the right side, labeled "Room 79" and "Room 80".
- Room 41: Small room on the left side, labeled "Room 81" and "Room 82".
- Room 42: Small room on the right side, labeled "Room 83" and "Room 84".
- Room 43: Small room on the left side, labeled "Room 85" and "Room 86".
- Room 44: Small room on the right side, labeled "Room 87" and "Room 88".
- Room 45: Small room on the left side, labeled "Room 89" and "Room 90".
- Room 46: Small room on the right side, labeled "Room 91" and "Room 92".
- Room 47: Small room on the left side, labeled "Room 93" and "Room 94".
- Room 48: Small room on the right side, labeled "Room 95" and "Room 96".
- Room 49: Small room on the left side, labeled "Room 97" and "Room 98".
- Room 50: Small room on the right side, labeled "Room 99" and "Room 100".

The plan also shows various structural details, including walls, doors, windows, and stairs. The title "FLOOR PLAN OF THE PREMISES" is written at the top of the drawing.

"Control Room" (Excluded from lease) area

EXHIBIT B

RULES AND REGULATIONS

This exhibit, entitled "Rules and Regulations," is and shall constitute *Exhibit B* to the Lease Agreement, dated as of the Lease Date, by and between landlord and Tenant for the Premises. The terms and conditions of this *Exhibit B* are hereby incorporated into and are made a part of the Lease. Capitalized terms used, but not otherwise defined, in this *Exhibit B* have the meanings ascribed to such terms in the Lease.

1. Tenant shall not use any method of heating or air conditioning other than that supplied by Landlord without the consent of Landlord.

2. Tenant shall not use, keep or permit to be used or kept any foul or noxious gas or substance or any flammable or combustible materials on or around the Premises, except to the extent that Tenant is permitted to use the same under the terms of Paragraph 32 of the Lease.

3. Tenant shall not alter any lock or install any new locks or bolts on any door at the Premises without the prior consent of Landlord.

4. Tenant shall park motor vehicles in parking areas designated by Landlord except for loading and unloading. During those periods of loading and unloading, Tenant shall not unreasonably interfere with traffic flow around the Building or the Project and loading and unloading areas of other tenants.

5. Business machines and mechanical equipment belonging to Tenant which cause noise or vibration that may be transmitted to the structure of the Building, to such a degree as to be objectionable to Landlord, shall be placed and maintained by Tenant, at Tenant's expense, on vibration eliminators or in noise-dampening housing or other devices sufficient to eliminate noise or vibration.

6. All goods, including material used to store goods, delivered to the Premises of Tenant shall be immediately moved into the Premises and shall not be left in parking or receiving areas overnight.

7. Tractor trailers which must be unhooked or parked with dolly wheels beyond the concrete loading areas must use steel plates or wood blocks under the dolly wheels to prevent damage to the asphalt paving surfaces. No parking or storing of such trailers will be permitted in the auto parking areas of the Project or on streets adjacent thereto.

8. Forklifts which operate on asphalt paving areas shall not have solid rubber tires and shall only use tires that do not damage the asphalt.

9. Tenant is responsible for the storage and removal of all trash and refuse. All such trash and refuse shall be contained in suitable receptacles stored behind screened enclosures at locations approved by Landlord.

10. Tenant shall not permit any animals, including but not limited to, any household pets, to be brought or kept in or about the Premises, the Building, the Project or any of the common areas.

11. Smoking is permitted only in designated areas.

INITIALS:

TENANT: _____

LANDLORD: _____

EXHIBIT C

FORM OF ESTOPPEL CERTIFICATE

_____ (herein "Tenant") hereby certifies, as of the date hereof, to and its successors and assigns that Tenant leases from _____ ("Landlord") approximately _____ square feet of space (the "Premises") in _____ pursuant to that certain Lease Agreement dated _____ by and between Landlord and Tenant, as amended by _____ (collectively, the "Lease"), a true and correct copy of which is attached hereto as Exhibit A. Tenant hereby certifies to _____, that as of the date hereof:

1. The Lease is in full force and effect and has not been modified, supplemented or amended, except as set forth in the introductory paragraph hereof.

2. Tenant is in actual occupancy of the Premises under the Lease and Tenant has accepted the same. Landlord has performed all obligations under the Lease to be performed by Landlord, including, without limitation, completion of all tenant work required under the Lease and the making of any required payments or contributions therefor. Tenant is not entitled to any further payment or credit for tenant work.

3. The initial term of the lease commenced _____ and shall expire _____. Tenant has the following rights to renew or extend the term of the Lease or to expand the Premises: _____.

4. Tenant has not paid any rentals or other payments more than one (1) month in advance except as follows: _____.

5. Base Rent payable under the Lease is _____. Base Rent and additional Rent have been paid through _____. There currently exists no claims, defenses, rights of set-off or abatement to or against the obligations of Tenant to pay Base Rent or Additional Rent or relating to any other term, covenant or condition under the Lease.

6. There are no concessions, bonuses, free months' rent, rebates or other matters affecting the rentals except as follows: _____.

7. No security or other deposit has been paid with respect to the Lease except as follows: _____.

8. Landlord is not currently in default under the Lease and there are no events or conditions existing which, with or without notice or the lapse of time, or both, could constitute a default of the Landlord under the Lease or entitle Tenant to offsets or defenses against the prompt payment of rent except as follows: _____.

Tenant is not in default under any of the terms and conditions of the lease nor is there now any fact or condition which, with notice or lapse of time or both, will become such a default.

9. Tenant has not assigned, transferred, mortgaged or otherwise encumbered its interest under the lease, nor subleased any of the Premises nor permitted any person or entity to use the Premises except as follows:

10. The Lease represents the entire agreement between the parties with respect to Tenant's right to use and occupy the Premises.

11. Tenant has not received nor has Tenant given any notice of default pursuant to the terms of the Lease.

IN WITNESS WHEREOF, Tenant has caused this certificate to be executed this day of _____, _____.

"TENANT"

By: _____

Name:

Title:

EXHIBIT D

FORM OF SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT
AGREEMENT

THIS AGREEMENT is dated the ____ day of _____, 200__, and is made between _____, a _____ having a place of business and mailing address of _____ ("Mortgagee"), and _____, a _____ having a place of business and mailing address of _____ ("Tenant").

RECITALS:

I. Tenant has entered into a certain lease (the "Lease") dated _____, with _____, as lessor ("Landlord") covering certain premises known as _____, being part of a premises commonly known as _____, and located in _____ (the "Premises").

II. Mortgagee has agreed to make a mortgage loan in the amount of _____ (\$_____) Dollars (together with all amendments, modifications, supplements, renewals, extensions, spreaders and consolidations thereto, the "Mortgage") to the Landlord, secured by the Premises, and the parties desire to set forth their agreement herein.

NOW, THEREFORE, in consideration of the Premises, and of the sum of One Dollar (\$1.00) by each party in hand paid to the other, the receipt of which is hereby acknowledged, the parties hereby agree as follows:

- A. Mortgagee hereby consents to the Lease.
- B. Said Lease is and shall be subject and subordinate to the Mortgage insofar as it affects the real property of which the Premises form a part to the full extent of the amounts secured thereby and interest thereon.
- C. Tenant agrees that it will attorn to and recognize any purchaser at a foreclosure sale under the Mortgage, any transferee who acquires the Premises by deed in lieu of foreclosure, and the successors and assigns of such purchaser(s), as its landlord for the unexpired balance (and any extensions, if exercised) of the term of said Lease upon the same terms and conditions set forth in said Lease.
- D. If it becomes necessary to foreclose the Mortgage, Mortgagee will not terminate said Lease nor join Tenant in summary or foreclosure proceedings (unless such joinder shall be required to protect Mortgagee's interest under the Mortgage and in which case Mortgagee shall not seek affirmative relief from Tenant in such action or

proceeding) so long as Tenant is not in default under any of the terms, covenants, or condition of said Lease.

E. If Mortgagee succeeds to the interest of Landlord under the Lease, Mortgagee shall not be:

1. liable for any act or omission of any prior landlord (including Landlord); or
2. liable for the return of any security deposit; or
3. subject to any offsets or defenses which Tenant might have against any prior landlord (including Landlord); or
4. bound by any rent or additional rent which Tenant might have paid for more than the current month to any prior landlord (including Landlord); or
5. bound by any amendment, modification, extensions or renewal of the Lease made without Lender's consent; or
6. bound by any representation or warranty made by any prior landlord (including Landlord).

F. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their successors and assigns.

G. Tenant agrees to give Mortgagee, by registered or certified mail, return receipt requested, a copy of any notice of default served upon Landlord, provided that prior to such notice Tenant has been notified in writing (by way of Notice of Assignment of Rent and Leases, or otherwise) of the address of such Mortgagee. Tenant further agrees that Tenant shall not terminate the Lease nor abate rents thereunder or claim an offset against rents thereunder unless notice has been given to Mortgagee and Mortgagee has been given a reasonable period of time (including a period of time to commence and complete a foreclosure proceeding) to cure such default.

H. Tenant acknowledges that it has notice that Landlord's interest under the Lease and the rents thereunder have been collaterally assigned to Mortgagee as part of the security for the obligations secured by the Mortgage. Notice from Mortgagee to Tenant directing payment of rent and all other sums due under the Lease shall have the same effect under the Lease as a notice to Tenant from Landlord and Tenant agrees to be bound by such notice. In the event of any conflict or inconsistency between a notice from Landlord and a notice from Mortgagee, the notice from Mortgagee shall control.

I. This Agreement shall not be modified, amended or terminated except by a writing duly executed by the party against whom the same is sought to be enforced.

J. This Agreement shall be governed by and construed in accordance with the internal laws (as opposed to the laws of conflicts) of the state in which the Premises are located.

IN WITNESS WHEREOF, the parties hereto have executed these presents as of the day and year first above written.

Date

Mortgagee: _____

By: _____

Its: _____

Address: _____

Date

Tenant: _____

By: _____

Its: _____

EXHIBIT E

HAZARDOUS MATERIALS DISCLOSURE CERTIFICATE

Your cooperation in this matter is appreciated. Initially, the information provided by you in this Hazardous Materials Disclosure Certificate is necessary for the Landlord to evaluate your proposed uses of the premises (the "Premises") and to determine whether to enter into a lease agreement with you as tenant. If a lease agreement is signed by you and the Landlord (the "Lease Agreement"), on an annual basis in accordance with the provisions of Paragraph 32 of the Lease Agreement, you are to provide an update to the information initially provided by you in this certificate. Any questions regarding this certificate should be directed to, and when completed, the certificate should be delivered to:

Landlord: 6000 Legacy Drive
Suite 4E
Plano, Texas 75024
Attn: Andrew Beal
Phone (469) 467-5604

Name of (Prospective) Tenant: CONVENIENCE FOOD SYSTEMS, INC

Mailing Address: 1700 REDBUD BLVD. SUITE 130
MCKINNEY TX 75070

Contact Person, Title and Telephone Number(s): CHRIS VAN WANDELEN
(508) 400-1141

Contact Person for Hazardous Waste Materials Management and Manifests and
Telephone Number(s): TONY BAYAT
(508) 400-1142

Address of (Prospective) Premises: 8000 N. DALLAS PARKWAY
FRISCO, TX 75034

Length of (Prospective) initial Term: 10 ~~YEARS~~ YEARS
OR

1. GENERAL INFORMATION:

Describe the proposed operations to take place in, on, or about the Premises, including, without limitation, principal products processed, manufactured or assembled, and services and activities to be provided or otherwise conducted. Existing tenants should describe any proposed changes to on-going operations.

ASSEMBLY OF FOOD PREPARATION PROCESSING
AND PACKAGING EQUIPMENT, SALES OFFICE + ADMIN

2. USE, STORAGE AND DISPOSAL OF HAZARDOUS MATERIALS

- 2.1 Will any Hazardous Materials (as hereinafter defined) be used, generated, treated, stored or disposed of in, on or about the Premises? Existing tenants should describe any Hazardous Materials which continue to be used, generated, treated, stored or disposed of in, on or about the Premises.

Wastes	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Chemical Products	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Other	Yes <input type="checkbox"/>	No <input type="checkbox"/>

If Yes is marked, please explain: SMALL QUANTITIES OF
SOLVENT. CFS USES SAFETY CLEAN
FOR REMOVAL

- 2.2 If Yes is marked in Section 2.1, attach a list of any Hazardous Materials to be used, generated, treated, stored or disposed of in, on or about the Premises, including the applicable hazard class and an estimate of the quantities of such Hazardous Materials to be present on or about the Premises at any given time; estimated annual throughput; the proposed location(s) and method of storage (excluding nominal amounts of ordinary household cleaners and janitorial supplies which are not regulated by any Environmental Laws, as hereinafter defined); and the proposed location(s) and method(s) of treatment or disposal for each Hazardous Material, including, the estimated frequency, and the proposed contractors or subcontractors. Existing tenants should attach a list setting forth the information requested above and such list should include actual data from on-going operations and the identification of any variations in such information from the prior year's certificate.

3. STORAGE TANKS AND SUMPS

- 3.1 Is any above or below ground storage or treatment of gasoline, diesel, petroleum, or other Hazardous Materials in tanks or sumps proposed in, on or about the Premises? Existing tenants should describe any such actual or proposed activities.

Yes 0

No ☒

If yes, please explain: _____

4. WASTE MANAGEMENT

- 4.1 Has your company been issued an EPA Hazardous Waste Generator I.D. Number? Existing tenants should describe any additional identification numbers issued since the previous certificate.

Yes 0

No ☒

- 4.2 Has your company filed a biennial or quarterly reports as a hazardous waste generator? Existing tenants should describe any new reports filed.

Yes 0

No ☒

If yes, attach a copy of the most recent report filed.

5. WASTEWATER TREATMENT AND DISCHARGE

- 5.1 Will your company discharge wastewater or other wastes to:

_____ storm drain? ☒ sewer?

_____ surface water? _____ no wastewater or other wastes discharged.

Existing tenants should indicate any actual discharges. If so, describe the nature of any proposed or actual discharge(s).

FOOD PARTICLES: CFS WILL INSTALL
GREASE TRAP

5.2 Will any such wastewater or waste be treated before discharge?

Yes ☒

No ☐

If yes, describe the type of treatment proposed to be conducted. Existing tenants should describe the actual treatment conducted.

GREASE TRAP

6. AIR DISCHARGES

6.1 Do you plan for any air filtration systems or stacks to be used in your company's operations in, on or about the Premises that will discharge into the air; and will such air emissions be monitored? Existing tenants should indicate whether or not there are any such air filtration systems or stacks in use in, on or about the Premises which discharge into the air and whether such air emissions are being monitored.

Yes ☒

No ☐

If yes, please describe: OIL MIST ELIMINATOR
FOR CONTINUOUS HOT OIL FRYER
IN CUSTOMER DEMO AREA

6.2 Do you propose to operate any of the following types of equipment, or any other equipment requiring an air emissions permit? Existing tenants should specify any such equipment being operated in, on or about the Premises.

☐ Spray booth(s)

☐ Incinerator(s)

☐ Dip tank(s)

☐ Other (Please describe)

☐ Drying oven(s)

☒ No Equipment Requiring Air Permits

If yes, please describe:

6.3 Please describe (and submit copies of with this Hazardous Materials Disclosure Certificate) any reports you have filed in the past [thirty-six] months with any governmental or quasi-governmental agencies or authorities related to air discharges or clean air requirements and any such reports which have been issued during such period by any such agencies or authorities with respect to you or your business operations.

NONE

7. HAZARDOUS MATERIALS DISCLOSURES

- 7.1 Has your company prepared or will it be required to prepare a Hazardous Materials management plan ("Management Plan") or Hazardous Materials Business Plan and Inventory ("Business Plan") pursuant to Fire Department or other governmental or regulatory agencies' requirements? Existing tenants should indicate whether or not a Management Plan is required and has been prepared.

Yes 0 ~~No 0~~

If yes, attach a copy of the Management Plan or Business Plan. Existing tenants should attach a copy of any required updates to the Management Plan or Business Plan.

- 7.2 N/A

Yes 0 ~~No 0~~

If yes, please explain: _____

8. ENFORCEMENT ACTIONS AND COMPLAINTS

- 8.1 With respect to Hazardous Materials or Environmental Laws, has your company ever been subject to any agency enforcement actions, administrative orders, or consent decrees or has your company received requests for information, notice or demand letters, or any other inquiries regarding its operations? Existing tenants should indicate whether or not any such actions, orders or decrees have been, or are in the process of being, undertaken or if any such requests have been received.

Yes 0 ~~No 0~~

If yes, describe the actions, orders or decrees and any continuing compliance obligations imposed as a result of these actions, orders or decrees and also describe any requests, notices or demands, and attach a copy of all such documents. Existing tenants should describe and attach a copy of any new actions, orders, decrees, requests, notices or demands not already delivered to Landlord pursuant to the provisions of Paragraph 32 of the Lease Agreement.

- 8.2 Have there ever been, or are there now pending, any lawsuits against your company regarding any environmental or health and safety concerns?

Yes 0

~~No 1~~

If yes, describe any such lawsuits and attach copies of the complaint(s), cross-complaint(s), pleadings and other documents related thereto as requested by Landlord. Existing tenants should describe and attach a copy of any new complaint(s), cross-complaint(s), pleadings and other related documents not already delivered to Landlord pursuant to the provisions of Paragraph 32 of the Lease Agreement.

- 8.3 Have there been any problems or complaints from adjacent tenants, owners or other neighbors at your company's current facility with regard to environmental or health and safety concerns? Existing tenants should indicate whether or not there have been any such problems or complaints from adjacent tenants, owners or other neighbors at, about or near the Premises and the current status of any such problems or complaints.

Yes 0

~~No 0~~

If yes, please describe. Existing tenants should describe any such problems or complaints not already disclosed to Landlord under the provisions of the signed Lease Agreement and the current status of any such problems or complaints.

9. PERMITS AND LICENSES

- 9.1 Attach copies of all permits and licenses issued to your company with respect to its proposed operations in, on or about the Premises, including, without limitation, any Hazardous Materials permits, wastewater discharge permits, air emissions permits, and use permits or approvals. Existing tenants should attach copies of any new permits and licenses as well as any renewals of permits or licenses previously issued.

As used herein, "Hazardous Materials" shall mean and include any substance that is or contains (a) any "hazardous substance" as now or hereafter defined in § 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA") (42 U.S.C. § 9601 *et seq.*) or any regulations promulgated under

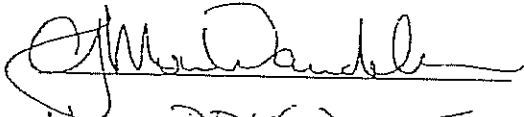
CERCLA; (b) any "hazardous waste" as now or hereafter defined in the Resource Conservation and Recovery Act, as amended ("RCRA") (42 U.S.C. § 6901 *et seq.*) or any regulations promulgated under RCRA; (c) any substance now or hereafter regulated by the Toxic Substances Control Act, as amended ("TSCA") (15 U.S.C. § 2601 *et seq.*) or any regulations promulgated under TSCA; (d) petroleum, petroleum by-products, gasoline, diesel fuel, or other petroleum hydrocarbons; (e) asbestos and asbestos-containing material, in any form, whether friable or non-friable; (f) polychlorinated biphenyls; (g) lead and lead-containing materials; or (h) any additional substance, material or waste (A) the presence of which on or about the Premises (i) requires reporting, investigation or remediation under any Environmental Laws (as hereinafter defined), (ii) causes or threatens to cause a nuisance on the Premises or any adjacent property or poses or threatens to pose a hazard to the health or safety of persons on the Premises or any adjacent property, or (iii) which, if it emanated or migrated from the Premises, could constitute a trespass, or (B) which is now or is hereafter classified or considered to be hazardous or toxic under any Environmental Laws; and "Environmental Laws" shall mean and include (a) CERCLA, RCRA and TSCA; and (b) any other federal, state or local laws, ordinances, statutes, codes, rules, regulations, orders or decrees now or hereinafter in effect relating to (i) pollution, (ii) the protection or regulation of human health, natural resources or the environment, (iii) the treatment, storage or disposal of Hazardous Materials, or (iv) the emission, discharge, release or threatened release of Hazardous Materials into the environment.

The undersigned hereby acknowledges and agrees that this Hazardous Materials Disclosure Certificate is being delivered to Landlord in connection with the evaluation of a Lease Agreement and, if such Lease Agreement is executed, will be attached thereto as an exhibit. The undersigned further acknowledges and agrees that if such Lease Agreement is executed, this Hazardous Materials Disclosure Certificate will be updated from time to time in accordance with Paragraph 32 of the Lease Agreement. The undersigned further acknowledges and agrees that the Landlord and its partners, lenders and representatives may, and will, rely upon the statements, representations, warranties, and certifications made herein and the truthfulness thereof in entering into the Lease Agreement and the continuance thereof throughout the term, and any renewals thereof, of the Lease Agreement. I [print name] CHRIS UMO (WANDER) acting with full authority to bind the (proposed) Tenant and on behalf of the (proposed) Tenant, certify, represent and warrant that the information contained in this certificate is true and correct.

(PROSPECTIVE) TENANT:

CONVENIENCE FOOD
SYSTEMS, INC., a Delaware
corporation

By:



Title:

VICE PRESIDENT

Date:

7/10/01

INITIALS:

TENANT:

CvW

LANDLORD:

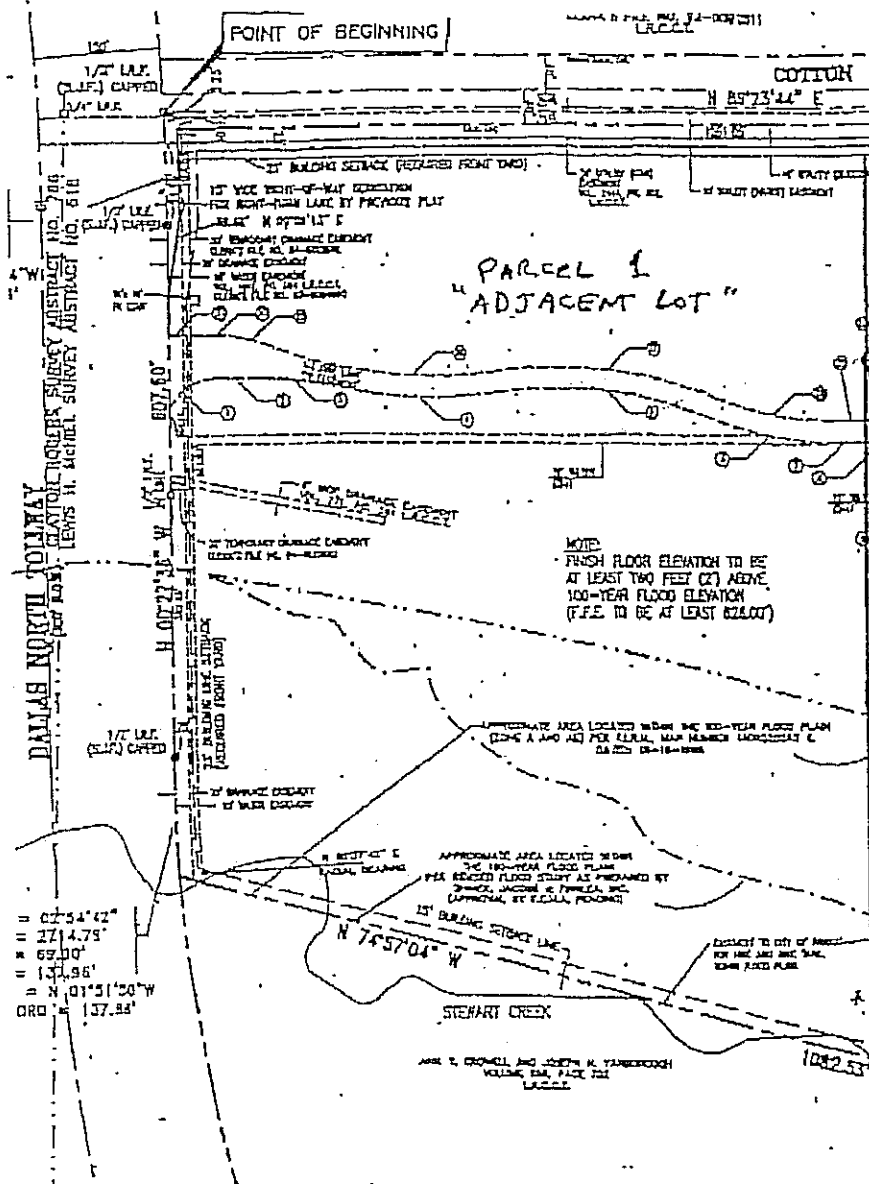
AB

EXHIBIT F

SIGN CRITERIA

All signs must comport with applicable laws of governmental authorities with jurisdiction over the Property.

ADJACENT LOT



* NORTH-SOUTH PARCEL BOUNDARIES ARE APPROXIMATE

BASINE EAST-WEST DESCRIPTION

- | | |
|-------------------------------|-------------------------------|
| 1. 4-13.00' DELTA-17°15'41\" | 20. 31.00' S. 89°00'00\" |
| 2. 71.00' N. 89°00'00\" | 21. 4-13.00' DELTA-17°15'41\" |
| 3. 4-13.00' DELTA-17°15'41\" | 22. 31.00' S. 89°00'00\" |
| 4. 71.00' N. 89°00'00\" | 23. 4-13.00' DELTA-17°15'41\" |
| 5. 4-13.00' DELTA-17°15'41\" | 24. 31.00' S. 89°00'00\" |
| 6. 71.00' N. 89°00'00\" | 25. 4-13.00' DELTA-17°15'41\" |
| 7. 4-13.00' DELTA-17°15'41\" | 26. 31.00' S. 89°00'00\" |
| 8. 71.00' N. 89°00'00\" | 27. 4-13.00' DELTA-17°15'41\" |
| 9. 4-13.00' DELTA-17°15'41\" | 28. 31.00' S. 89°00'00\" |
| 10. 71.00' N. 89°00'00\" | 29. 4-13.00' DELTA-17°15'41\" |
| 11. 4-13.00' DELTA-17°15'41\" | 30. 31.00' S. 89°00'00\" |
| 12. 71.00' N. 89°00'00\" | 31. 4-13.00' DELTA-17°15'41\" |
| 13. 4-13.00' DELTA-17°15'41\" | 32. 31.00' S. 89°00'00\" |
| 14. 71.00' N. 89°00'00\" | 33. 4-13.00' DELTA-17°15'41\" |
| 15. 4-13.00' DELTA-17°15'41\" | 34. 31.00' S. 89°00'00\" |
| 16. 71.00' N. 89°00'00\" | 35. 4-13.00' DELTA-17°15'41\" |
| 17. 4-13.00' DELTA-17°15'41\" | 36. 31.00' S. 89°00'00\" |
| 18. 71.00' N. 89°00'00\" | 37. 4-13.00' DELTA-17°15'41\" |
| 19. 4-13.00' DELTA-17°15'41\" | 38. 31.00' S. 89°00'00\" |
| 20. 71.00' N. 89°00'00\" | 39. 4-13.00' DELTA-17°15'41\" |
| 21. 4-13.00' DELTA-17°15'41\" | 40. 31.00' S. 89°00'00\" |
| 22. 71.00' N. 89°00'00\" | 41. 4-13.00' DELTA-17°15'41\" |
| 23. 4-13.00' DELTA-17°15'41\" | 42. 31.00' S. 89°00'00\" |
| 24. 71.00' N. 89°00'00\" | 43. 4-13.00' DELTA-17°15'41\" |
| 25. 4-13.00' DELTA-17°15'41\" | 44. 31.00' S. 89°00'00\" |
| 26. 71.00' N. 89°00'00\" | 45. 4-13.00' DELTA-17°15'41\" |
| 27. 4-13.00' DELTA-17°15'41\" | 46. 31.00' S. 89°00'00\" |
| 28. 71.00' N. 89°00'00\" | 47. 4-13.00' DELTA-17°15'41\" |
| 29. 4-13.00' DELTA-17°15'41\" | 48. 31.00' S. 89°00'00\" |
| 30. 71.00' N. 89°00'00\" | 49. 4-13.00' DELTA-17°15'41\" |
| 31. 4-13.00' DELTA-17°15'41\" | 50. 31.00' S. 89°00'00\" |

GRANTOR'S CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS

That I, David F. McQuinn, do hereby certify that I am a duly licensed Surveyor in the State of Texas and that the foregoing plat was prepared by me in accordance with the Statutes of this State.

David F. McQuinn
Registered Professional
Land Surveyor (1122)

COUNTY OF DALLAS
STATE OF TEXAS

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared David F. McQuinn, known to me to be the person whose name is subscribed to the foregoing plat, and he acknowledged to me that he executed the same in the capacity of a

Notary Public in and for the State of Texas

My Commission Expires

INFORMATION ABOUT BROKERAGE SERVICES

Texas law requires all Real Estate licensees to give the following information about Brokerage services to prospective Buyers, Tenants, Sellers and Landlords

"Before working with a Real Estate Broker, you should know that the duties of a Broker depend on whom the Broker represents. If you are a prospective Seller or Landlord (Owner) or a prospective Buyer or Tenant (Buyer), you should know that the Broker who lists the property for sale or lease is the Owner's Agent. A Broker who acts as a subagent represents the Owner in cooperation with the listing Broker. A Broker who acts as a Buyer's Agent represents the Buyer. A Broker may act as an intermediary between the parties if the parties consent in writing. A Broker can assist you in locating a property, preparing a contract or lease, or obtaining financing without representing you. A Broker is obligated by law to treat you honestly."

"IF THE BROKER REPRESENTS THE OWNER": The Broker becomes the Owner's Agent by entering into an agreement with the Owner, usually through a written listing agreement, or by agreeing to act as a subagent by accepting an offer of sub-agency from the listing Broker. A subagent may work in a different Real Estate office. A listing Broker or subagent can assist the Buyer but does not represent the Buyer and must place the interests of the Owner first. The Buyer should not tell the Owner's Agent anything the Buyer would not want the Owner to know because an Owner's Agent must disclose to the Owner any material information known to the Agent.

"IF THE BROKER REPRESENTS THE BUYER": The Broker becomes the Buyer's Agent by entering into an agreement to represent the Buyer, usually through a written Buyer representation agreement. A Buyer's Agent can assist the Owner but does not represent the Owner and must place the interests of the Buyer first. The Owner should not tell a Buyer's Agent anything the Owner would not want the Buyer to know because a Buyer's Agent must disclose to the Buyer any material information known to the Agent.

"IF THE BROKER ACTS AS AN INTERMEDIARY": A Broker may act as an intermediary between the parties if the Broker complies with The Texas Real Estate License Act. The Broker must obtain the written consent of each party to the transaction to act as an intermediary. The written consent must state who will pay the Broker and, in conspicuous bold or underlined print, set forth the Broker's obligations as an intermediary. The Broker is required to treat each party honestly and fairly and to comply with The Texas Real Estate License Act. A Broker who acts as an intermediary in a transaction: (1) shall treat all parties honestly; (2) may not disclose that the Owner will accept a price less than the asking price unless authorized in writing to do so by the Owner; (3) may not disclose that the Buyer will pay a price greater than the price submitted in a written offer unless authorized in writing to do so by the Buyer; and (4) may not disclose any confidential information or any information that a party specifically instructs the Broker in writing not to disclose unless authorized in writing to disclose the information or required to do so by The Texas Real Estate License Act or a court order or if the information materially relates to the condition of the property. With the parties' consent, a Broker acting as an intermediary between the

parties may appoint a person who is licensed under The Texas Real Estate License Act and associated with the Broker to communicate with and carry out instructions of one party and another person who is licensed under that Act and associated with the Broker to communicate with and carry out instructions of the other party.

"If you choose to have a Broker represent you, you should enter into a written agreement with the Broker that clearly establishes the Broker's obligations and your obligations. The agreement should state how and by whom the Broker will be paid. You have the right to choose the type of representation, if any, you wish to receive. Your payment of a fee to a Broker does not necessarily establish that the Broker represents you. If you have any questions regarding the duties and responsibilities of the Broker, you should resolve those questions before proceeding."

RE: (Address/Tenant): Frisco ISD

Robert Lynn Company Agent(s): Scott Asbury

Represents:

Landlord/Seller:

Tenant/Buyer:

Both:

Faxed/Submitted To: Richard Wilkenson

Fax #:

Date:

Nov. 1, 2004

ONLY IF ACTING AS INTERMEDIARY:

The parties signed below consent to have the above named Robert Lynn Company Agent(s) act as Intermediary(s) to this transaction. The Seller/Landlord will pay any fees or commissions related to this transaction:

Signatures:

Buyer/Tenant: _____

Seller/Landlord: _____

